







JOURNAL

OF THE

SENATE

SPECIAL SESSION OF 1974

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OF THE

## SENATE

SPECIAL SESSION OF 1974

*Tuesday, 19Feb74*

The Senate met at 11 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Dear Lord, for us on this 1st day of our Special Session, help us to remember that you are ever near to guide us in our many problems.

Give unto us gentle humility, that will set a tone for our daily labors.

We are aware of the weight of the burdens we are beset with and also of our human fallibilities. Our wish is to elevate ourselves above the temptations of our times!

While we work, let us also be aware of *His Presence* and when our day is over we may have the knowledge of work well completed and our duties faithfully fulfilled.

Bless our nation, give special guidance to our President, Governor and all peoples. Make this Senate Body a blessing to all mankind.

In Thy Holy Name, Amen.

The Pledge of Allegiance was led by Senator Lamontage.

### CALL OF THE SPECIAL SESSION

#### RESOLUTION

*Whereas*, the welfare of the State requires the reconvening of the General Court for the purposes of considering a capital budget, food stamp legislation, a cost of living formula for state retirees, financial relief to our cities and towns to help elderly

citizens and other taxpayers, time and one-half pay for all overtime for state employees, and the energy crisis; and

*Whereas*, the Executive Department in calling such a session intends a limited agenda of those items deemed very important to the welfare of the State:

*Now, Therefore*, the Governor and Council, on motion duly seconded, hereby exercise their executive legislative authority under Part 2, Article 50, of the New Hampshire Constitution and summon the General Court to reconvene in Special Session at 11:00 A.M. on Tuesday, February 19, 1974, for the purpose of considering the above enumerated matters affecting the welfare of the State.

Meldrim Thomson, Jr.  
Governor

With the advice of the Council:

Robert L. Stark  
Secretary of State

## ROLL CALL OF THE SENATE

### SENATORS PRESENT

#### District No.

1	Laurier A. Lamontagne
2	Andrew W. Poulsen
3	Stephen W. Smith
4	Edith B. Gardner
5	David Hammond Bradley
6	Richard P. Green
7	Alf E. Jacobson
8	Harry V. Spanos
9	David L. Nixon
10	Clesson J. Blaisdell
11	C. R. Trowbridge
12	Frederick A. Porter
13	John H. McLaughlin
14	Thomas J. Claveau
15	Roger A. Smith
16	Richard F. Ferdinando
17	William E. Sanborn
18	Paul E. Provost
19	Ward B. Brown

20	Robert F. Bossie
21	Walworth Johnson
22	Delbert F. Downing
23	Robert F. Preston
24	Eileen Foley

### ANNOUNCEMENTS

CHAIR: I would like to advise you of the personnel situation in respect to the Special Session. There are two Committee Stenographers whose names are Roberta Lackey and Gail Gordon. They were both at work this morning at the hearings. As Recorder, we welcome back Mrs. Lee MacCleery of Concord. The Majority Leader's Secretary is now Gail Pearson, who I understand was former Governor Powell's secretary. Senate Messengers are Ed Smith of Bradford and David Carey of Amherst. The Administrative Assistant to the Minority is Mr. Wayne Vennard. The Telephone Messenger is Mrs. Betty Hooper. Sandra Hudson is back with us and also Jessie Brill, both working in our office. Lee Kidder is the Senate Administrative Assistant. William Montrone is again Administrative Assistant to the Senate Finance Committee. This, of course, is a reduction of the staff of the regular session occasioned by the fact that we will be here a short period of time and that we are working on a limited financial situation. The appropriation was but \$150,000. I might say one of the most important persons up here is the Clerk, Wilmont White. Our Assistant Clerk is again Carl Peterson. The Sergeant-at-Arms is Milo Cheney and the Doorkeeper Willard Gowen.

### RESOLUTIONS

Sen. Porter and Sen. Foley offered the following resolution:

*Resolved*, That the House of Representatives be informed that under authority of the Call of a Special Session by the Governor and Council, the Senate has assembled and is now ready to proceed with the business of the 1974 Special Session.

Adopted.

### HOUSE MESSAGE

#### RESOLUTION

The House of Representatives has passed the following resolution:

*Resolved*, that the honorable Senate be notified that the House of Representatives has assembled under the authority of the call of a special session by the governor and council, and is now ready to proceed with the business of the 1974 special session.

## HOUSE MESSAGE

### CONCURRENT RESOLUTION

The House of Representatives has passed the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

*Resolved*, that the honorable Senate be notified that the House of Representatives will be ready to meet the Senate in joint convention at 11:30 o'clock for the purpose of receiving his excellency the governor and any communication he may be pleased to make, and that a joint committee of five consisting of three on the part of the House and two on the part of the Senate be appointed to wait upon his excellency and inform him accordingly.

The Speaker has appointed Reps. Roberts, Coutermarsh and Bell.

Sen. Blaisdell and Sen. Bossie moved adoption.

Adopted.

The President appointed Sens. Porter and Spanos.

### RESOLUTIONS

Sen. S. Smith offered the following resolution:

*Resolved*, That the rules of the Senate of the 1973 Session of the General Court be continued as the rules of the Senate for the 1974 Special Session, as amended, copies of which are in the hands of members of this Body.

Sen. S. SMITH: There are a few changes in the Rules of the Senate which basically are concerned with timing because of the brief time this Special Session will meet. These were sent through the mail to every senator.

CHAIR: I think you all have received copies of the proposed Senate and Joint Rules. There are additional copies available for those who do not have them.

Sen. S. SMITH: The first change is in Rule 14 which is the Rule relative to reconsideration. In the regular Session, there was a portion here which allowed, after the notice of reconsideration, three days in which reconsideration could be acted upon. This has been limited to one day. It does not, however, change, in any way, notice of reconsideration. You still have until one-half hour after the beginning of the following day's session to serve notice of reconsideration.

Rule 22 — "A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least two legislative days in the Journal of the Senate." That was the '73 Rule. Under the Rules for the Special Session, it has been shortened to *one* legislative day.

Rule 39 — This is the Rule relative to when bills shall be reported out of committee after being referred to that committee. It changes it so that the Rule reads instead of 12 legislative days that "after a bill has been in committee for 4 legislative days, the sponsor of said bill may have the privilege of having the bill reported out by the committee within two legislative days after his request."

Those are the changes in the Senate Rules for the Special Session. I hope that the Senate will adopt the report of the Rules Committee with those amendments.

Sen. JACOBSON: As I understand what you have just said and as I read it, the changes relate only to the fact of the restriction of the Special Session in terms of its time.

Sen. S. SMITH: Correct.

CHAIR: I might say the Rules Committee is composed of Sen. S. Smith, Sen. Spanos and Sen. Porter.

Adopted.

### CONCURRENT RESOLUTION

Sen. S. Smith offered the following concurrent resolution:

*Be It Resolved* by the Senate, the House of Representatives Concurring, that the Joint Rules of the 1973 Session, as amended in accordance with the copy of the Joint Rules which has been distributed and is now in the possession of all members, be adopted as the Joint Rules of the 1974 Special Session.

Sen. S. SMITH: There have been changes in the Joint Rules from the 1973 Joint Rules. If you will turn to the second page — Rule 10. If you will read that, you will find how bills are introduced into the House. Instead of describing it to you, I will read it. "The originating house shall, no later than the sixth legislative day, take final action for passage to the non-originating house or finally dispose of in some other manner, all bills and joint resolutions, except the supplemental operating budget and the capital budget. The House of Representatives shall, no later than the eighth legislative day, take final action, prior to passage to the Senate, on the supplemental operating budget and the capital budget. The non-originating house shall, no later than the twelfth legislative day, take final action necessary for delivery to the Secretary of State for presentment to the governor or for messaging back to the originating house for concurrence in amendments adopted by the non-originating house, or to finally dispose of in some other manner, all bills and joint resolutions without exception."

In effect, what this does — it gives each house six days to work on all bills, except for the operating budget bill and the capital budget. Due to the complexity of these, it was felt it would be better to have them in the House for a few extra days and I have talked with Senator Trowbridge, Chairman of the Senate Finance Committee, who is in concurrence with this due to the fact, particularly in regard to the supplementary budget, there will be joint hearings between House Appropriations and Senate Finance. This also means that all bills must be out of both houses within 12 days, leaving the 13th and 14th days for Committees of Conference. Now those days of Committees of Conference would end on the 14th day and, before we go home on the 14th day, all action must be taken on all bills.

If you turn to page 3, you will note the means of getting a bill into the legislative hoppers was set up by Joint Rules and how it can be done with exception. What it says in effect — I won't read it — is that if you have a bill which you want to introduce into the Legislature, you must go to the Rules Committee, request the Rules Committee of your body, that is the Senate, to introduce this bill. If the Rules Committee refuses to do so, then it would be taken up and you could introduce it with a two-thirds vote of members voting and present. This same procedure must be followed in the second house.



Then the rules are the same until you get to Rule 18. Rule 18 is omitted for this Special Session. This is relative to Constitutional amendments. There do not seem to be any, probably due to the fact that the Constitutional Convention is coming up.

Rule 19 is omitted. This lays out the rules for recording of financial matters as during the regular session.

Rule 20 is omitted. This deals with Conference Committees.

Rule 21 also is omitted.

Rule 22 is changed. "No joint rule, except rule 12, shall be suspended unless two-thirds of the members present, in each house, voting separately, vote in favor thereof." This means that Joint Rules must be suspended by action by two-thirds of both houses — Joint Rules — except for Rule 12 and we discussed Rule 12 a few minutes ago and this is done individually by each house and deals with the introduction of bills. I have talked this over with Arthur Marx so that the suspension to bring in be done individually in each house and this is why we have the inception there.

Rule 30 is a new Rule for this Special Session. "Neither house shall adjourn on the fourteenth legislative day until all bills and joint resolutions finally passed by both houses have been presented to the governor for his signature or veto."

Rule 31: "Each house shall adjourn from the fourteenth legislative day to the same mutually agreed date certain which shall be no sooner than the first day after the expiration of the five days in which the governor must return any bill or joint resolution if he does not sign it or does not wish it to become law without his signature as provided in Part 2, Article 44 of the New Hampshire Constitution." This, in fact, gives us that five day grace period so that we can come back to act upon veto messages and will not have pocket vetoes.

I hope that the Senate will go along with the adoption of the Rules with those amendments.

Sen. LAMONTAGNE: What difference is there between the original rules and the 1974 Special Session rules?

Sen. S. SMITH: I think they may be fairly similar.

Sen. LAMONTAGNE: If I understand correctly, if anyone wants to introduce a bill, it would take two-thirds of the majority of this body to introduce the bill.

Sen. S. SMITH: After you have first been to the Rules Committee of the Senate.

Sen. LAMONTAGNE: That is the difference.

Sen. S. SMITH: You get suspension one more time.

Sen. JACOBSON: As I understand it, if we were to adopt these rules we would then accept the legislative package which has been mailed to us and any other bill would require a two-thirds vote for introduction. Is that correct?

Sen. S. SMITH: Not quite. Before you have a two-thirds vote in the Senate, the bill has to be brought to the Senate Rules Committee. If Senate Rules turns you down you may then appeal to the two-thirds of the Senate.

Sen. JACOBSON: It is my understanding that the bills that were presented at the hearings and have been turned down by the Rules Committee — would they go to the Rules Committee again for further review before they came before the Senate if these rules were to be adopted?

Sen. S. SMITH: If you are asking the question as to whether or not a bill was turned down under joint rules earlier it may still be submitted to the Senate Rules Committee for action. Is that the question?

Sen. JACOBSON: Yes. You clarified it for me.

Sen. S. SMITH: I would also add that we are planning — the Rules Committee is planning a hearing immediately after this session.

## RECESS

## JOINT CONVENTION

(See House Journal)

## AFTER RECESS

Sen. LAMONTAGNE: Senator Smith, in answering my question on the introduction of bills, you mentioned that before

any bills could be introduced you would have to ask the Rules Committee. Of course, prior to that, anyone who had a bill to introduce introduced the bill and then the Chair sent it to the Rules Committee. Don't you feel this is going to lengthen the introduction of bills?

Sen. S. SMITH: No, I don't. I think that due to the fact we are having a session this afternoon we can take care of these matters rapidly.

Sen. LAMONTAGNE: I have one more question. I have noticed in referring back to SJR 1, this bill is introduced by Senator Roger Smith of District 15 and Representative Nelson Pryor from Coos County. Is this a new procedure for this Special Session?

Sen. S. SMITH: As I understand it, under the adopted procedure it is now all right for House and Senate members to jointly sponsor legislation.

Sen. LAMONTAGNE: Under what rule?

Sen. S. SMITH: Joint Rules of last year — I think it was done one or two times during the regular session.

Sen. JACOBSON: HB 923 was done that way.

Sen. FERDINANDO: In other words, in essence what we really have here is if the Rules Committee unanimously approves a bill you do not have to get the two-thirds vote?

Sen. S. SMITH: Yes, but it is not the unanimous vote of the Rules Committee. With three members, it could be a 3 to 2 vote.

Sen. FERDINANDO: If two of the three members of the Rules Committee say it is all right, it sounds like a good bill, that is all it takes to introduce a bill?

Sen. S. SMITH: That is right.

Sen. JACOBSON: At this juncture, I cannot support adopting the Joint Rules which would then mean that a two-thirds vote would be necessary for a bill to be introduced. There are, in my view, still unmet needs, requiring action, which are equal to, or more important than, those allowed in by the Rules Committee. Indeed, without going into details, I find great difficulty in even understanding the emergency nature of some, if

that were the basis on which these bills were accepted. As one example, I've always thought that children were more important than horses and dogs. Yet, a horse-doggy commission gains approval; a commission for children is thrown out. On this ground alone, I can not accept the Joint Rules.

Again, the need for establishing aid for our private colleges is so great that I find it nothing short of incredible that Rules would turn down this request. Compared to legislation admitted, the need far outdistances most of the other pieces of legislation.

Again, there is a need to correct a defect in the appointment of planning board members created by two laws passed by the 1973 Legislature which devised two incompatible systems. This could potentially create problems of planning boards with respect to their decisions being challenged by opponents and their legal representatives. To throw out this suggestion, seems most unreasonable.

Again, there is a need to correct the Homestead Act at several points. Here is a good example of legislation drawn in the abstract without regard to how in practice it will work out. The definition of resident needs clarification. What is the relationship of this legislation to the current use legislation? How does it mesh with other exemptive parts of the statutes? What is its impact on property held in trust? Even the question to be put on the ballot is faulty. Should there not be a responsible agent for putting forth information to the voters as to its impact on a given community. I cannot believe but that this requires immediate attention.

Again, I was flabbergasted to see that Rules threw out Senator Bossie's and my suggestion that there be a legislative commission to handle energy. I know of no greater problem facing people over at least the next few years. We were plunged into this condition so precipitously because no one bothered to keep check. I just heard the other day that gasoline supplies will be 30% short beginning April 1. Can we as a Legislature afford to disassociate ourselves from this crisis over the next ten months.

Finally, Senator Bossie and I wish to introduce SB 231 again. We thought that the bill had merit then. Now, recent events in New York and Wisconsin where persons died because

of energy cut-offs, further highlight this need. Neither one of us can stand by and let this happen in New Hampshire.

I am certain there are other needs which other Senators know of. Let us not be fooled by the arguments of "emergency." Whatever interpretation is applicable, the standard is not uniform. Moreover, the 54 bill workload as worked out in its elongated form, can easily allow for greater volume of legislative productivity. As I see it, there may be fifteen to twenty more pieces of needful legislation which ought to be admitted. I, for one, cannot allow the bar to be dropped when I know there is an unmet need which may snowball into something worse before January, 1975. If I can make New Hampshire a little better now, why should I wait?

In looking over the introduced legislation, I note a distinct proclivity for a selected number of legislators to have their names inscribed on bills. I recognize this as a special anxiety to fill campaign dossiers. Let me only say, that I have no such need. I shall be glad to let others stand as sponsor if that will help fill these genuine needs. Each senator must make his own decision. I have made mine.

Sen. FERDINANDO: Do you have any suggestions as to how these Joint Rules should be changed?

Sen. JACOBSON: I have no suggestions in regard to changing them. I am saying that I think we should not act on them until we have at least heard and voted on these other bills, which could then be accepted by majority rule. Once we accept this, it has to be done by a two-thirds vote or by two-thirds of the Senate Rules Committee. These bills — the ones I mentioned — have already apparently been acted upon and have not been accepted.

Sen. TROWBRIDGE: I am in sympathy with the point of view of Senator Jacobson, but I wonder if I am correct on Rule 12 that it would require a two-thirds vote in the House as well. Have not these proposals of yours been turned down by Joint Rules and the House side as well? Even if the Senate Rules Committee were to go along, you still have to sell this to the House side.

Sen. JACOBSON: I think that may be correct, if we adopt the Joint Rules.

Sen. TROWBRIDGE: Let's say the House adopts the Joint Rules and we do not, then where do we stand?

Sen. JACOBSON: As I understand it, in a parliamentary way, there are no Joint Rules then.

Sen. JOHNSON: If the Rules were not adopted, we could proceed with our business?

Sen. JACOBSON: If the Rules were not adopted, we could proceed along with business with respect to the introduction of bills. That is my opinion. In the last session, I think it was approximately May 20 before we adopted the Joint Rules and similarly in the 1971 Session, if I am not mistaken.

### LAY ON THE TABLE

Sen. BOSSIE moved the Concurrent Resolution be laid on the table until Wednesday next, February 27, 1974.

CHAIR: This is a Motion which is not debatable and requires a majority vote.

### PARLIAMENTARY INQUIRY

Sen. LAMONTAGNE: Can an amendment be accepted at this time? — An amendment to the Motion to Lay on the Table until a future date?

CHAIR: A motion to amend does take precedence over a motion to lay on the table.

### AMENDMENT

Sen. LAMONTAGNE: I would move the motion to lay on the table be amended to change the time to a delay of two legislative days.

CHAIR: If I understand your Motion correctly, Senator, you propose to amend the pending Motion under the proposed schedule to February 26.

Amendment defeated.

### MOTION TO LAY ON TABLE

### ROLL CALL

Roll Call requested by Sen. Bossie. Seconded by Sen. Jacobson.

Yeas: Sens. Green, Jacobson, McLaughlin, Claveau, Ferdinando, Sanborn, Bossie, Johnson, Downing and Preston.

Nays: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Provost, Brown and Foley.

Result: Yeas 10; Nays 13.

Motion lost.

Concurrent Resolution adopted.

Sens. Jacobson, Bossie and Preston recorded in opposition.

## HOUSE MESSAGE

### CONCURRENT RESOLUTION

The House of Representatives has passed the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

A resolution legalizing, ratifying, approving and confirming the action taken by the joint rules committee in granting approval for drafting, pre-printing, and introducing bills, joint resolutions and concurrent resolutions to amend the constitution, and to include the holding of all hearings as printed in the Calendar of both houses.

Sen. S. Smith moved adoption.

Sen. S. SMITH: I think this gives legality and authority to all actions which have been taken as far as the hearings which were held this morning, insofar as the printing of bills for this Sessions.

CHAIR: I am advised by the Clerk that this type of device is utilized during Special Sessions to legalize the interim work and preparation therefor.

Adopted.

Sen. DOWNING: I move that the Senate meet as required on successive Tuesdays and Wednesdays commencing today, except for Town Meeting week, when they will meet Wednesday and Thursday and the final day would be Wednesday, April 10.

This is a slight modification from the Calendar which was submitted to use for consideration which would have had us meeting on two Thursdays and would have concluded on April 4 — that being the last day that has the period in between so that we might respond to any possible vetoes. I would just move it up one week. It would limit it to two days of legislative sessions in a given week if they are required. If they are not, why that could be shortened up also and would still leave us that break at the end to respond to possible vetoes, being April 10.

Sen. TROWBRIDGE: I speak in favor of the Motion. As you may know, the Joint Rules provide that the budget will come across on the eighth legislative day and that we are supposed to have it four days later. The way the schedule was, that would be getting into the time when we are running all through the week — three days a week. As you also know, if there are any changes that the Senate wants to make — Finance and the Senate in general — we have the problem of printing those changes. It would be a great help to the Senate Finance Committee if we had the extra days — non-legislative days — to use for that housekeeping, marking up and all the problems of reprinting a budget bill, not only from a personal convenience point of view — two days a week instead of three — but from a functional point of view. I think as we come to the end of the Session it will be quite worthwhile to be going two days officially and having the third day there for printing and sending material out to you so you could get it on the weekend to read what has happened. This kind of informative machinery — the logistics is what I am thinking of as much as anything else.

Sen. SANBORN: This does not in any way prohibit the Committees from meeting on Thursdays and Fridays as some of the schedules already set up?

Sen. DOWNING: To my knowledge, it doesn't at all. The only limitation would be that salaries would not be available. I believe the policy has been established that legislative mileage would be paid.

Sen. R. SMITH: Is it your intention that the Senate meet at 1:00 p.m. or 11:00 a.m.?

CHAIR: I was assuming we would meet at our regular time



unless the Senate expressed a preference otherwise — at 1:00 p.m.

Sen. BRADLEY: This is just for the Senate or will the House be asked to do the same?

Sen. DOWNING: Just for the Senate. Perhaps the House will decide to meet at the same times. If not, of course, I think we established during the last regular session that we do not necessarily have to be meeting on the same day.

Sen. BRADLEY: Won't we get into a problem if the House is all done on April 4, or whatever the date is, and we are still in session and trying to finish up on April 10?

Sen. DOWNING: I don't think so. Under the Joint Rules, they have agreed to delay the final adjournment at least 5 days. I really don't think it will be a problem at all. Hopefully, by taking our action early and expediting things, the House would be encouraged to follow the same schedule anyway.

Sen. S. SMITH: I do this regretfully, but I rise in opposition to this Motion. During the regular session, we met on certain days and the House did not. I think, however, because of the short period and the tightness of this operation, it would be difficult to coordinate such things as Committees of Conference so that the House could take action on those Committees of Conference without being out of phase with our actions. It seems to me that we can get the material out — the printing — so that it would not be an inconvenience to the senators. I think the coordination of this Special Session has to be tight and we have to work very much in concert and I am afraid if the House meets with this schedule and we meet at a later date, we may have problems, particularly relative to the 14th day in resolving Committees of Conference when they have gone home.

Sen. DOWNING: As I understand your concern, it is based purely on the assumption that the House will not go along with the Tuesday-Wednesday schedule.

Sen. S. SMITH: I think this is my basis for it, yes. I think the House felt this schedule could work.

Sen. DOWNING: Inasmuch as apparently the House has not taken action on this matter now, don't you feel they could be quite sympathetic to the position of the Senate and that the

Senate has in fact acted upon a calendar and probably relieve your concern?

Sen. S. SMITH: If they did, it would relieve my concern greatly.

Sen. BRADLEY: What would you think of an amendment which made your Motion conditional upon the House accepting the same calendar?

Sen. DOWNING: I don't think it is necessary and I think it probably would just delay bringing things to a conclusion and getting on a schedule.

Sen. LAMONTAGNE: I have a bill now pending in committee and I understand it is coming in with a favorable report. This is in reference to changing the election day for Constitutional Convention delegates for the City of Berlin to March 12, which is the city election. I was just hoping that the House and Senate would not meet on the 12th of March. I am sorry the 12th could not be changed because it would have to be a referendum and that is the reason it was not changed to the 5th of March.

Sen. TROWBRIDGE: I would like to say I did mention to George Roberts and Speaker O'Neil the fact that we were going to debate this issue and they did not seem to take it amiss. They said if the Senate were to adopt that calendar, it would be interesting to know that presumably there would be a meeting to see if it could be worked out.

Motion adopted.

#### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: I certainly feel I and the Berlin Delegation would like to be home on the day of a city election and also the Constitutional Convention election which I assume will be on that day. Seeing that this motion is now passed, I am wondering if the courtesy could be given us from both houses — of course I can only ask this house — if we could meet at 1:00 on that day. At least it would give us a chance to vote and then come down.

CHAIR: As far as I am concerned, the Senate has never failed to extend the proper courtesy to the Berlin area. Would Senator Downing state the actual dates we would be meeting

under the motion just adopted so that we can put them on our calendar.

Sen. DOWNING: The dates would be today, Tuesday, February 19; tomorrow, Wednesday the 20th. Next week would be Tuesday, February 26 and Wednesday, February 27. The following week Wednesday, March 6 and Thursday, March 7. The following week we go back to Tuesday, March 12 and Wednesday, March 13. The following week would be Tuesday, March 19 and Wednesday, March 20. The following week would be Tuesday, March 26 and Wednesday, March 27. Then in April, Tuesday, April 2 and Wednesday, April 3 and the 14th day being scheduled for Wednesday, April 10.

Sen. JACOBSON: In order to resolve the dilemma of Senator Lamontagne, we could change it to Wednesday and Thursday, the week of March 12. That would be possible could it not?

Sen. DOWNING: I understood Senator Lamontagne's concern was that we did not meet before 1:00 on that day so that he would have an opportunity to vote. And I further understand that 1:00 will be our meeting time.

## ANNOUNCEMENTS

CHAIR: There are hearings scheduled for Thursday, February 21st, although that is not a legislative day. Of course, any members in attendance, will be allowed legislative mileage for that day, as for any other day when hearings are scheduled on non-legislative days.

## SUSPENSION OF RULES

Sen. Porter moved the Rules of the Senate be so far suspended as to allow Senate Bills 1 through 18 and Senate Joint Resolution 1 to be read for the first and second time and referred to Committee at this time.

## PARLIAMENTARY INQUIRY

Sen. JOHNSON: If one was going to ask a question as to why a bill went to a certain committee, how would one go from here?

CHAIR: Now would be the appropriate time.

Sen. JOHNSON: In regard to SB 5, I see they have already held the hearing so the question is a little behind. The Executive Departments usually handle the DES bills. I am a little curious as to why that bill did not come to our committee.

CHAIR: It is my opinion that bills should be referred to the committee, the subject matter of which most closely relates to the real purpose or nature of the bill. In this case, we are talking about the legal rights of a person denied unemployment compensation and, for that reason, the bill was referred to the Judiciary Committee. If someone desires to have another committee take jurisdiction over a bill jointly or as a substitute, with the proper motion they can do so and certainly the Chair has no objection.

Sen. BRADLEY: We do have bills in that area come before our committee. I have no brief one way or another whether that bill should have come to our committee. It is similar to bills we had in the regular session.

CHAIR: In further answer to your inquiry, an additional problem of the Special Session is to allocate the bills so everybody has something to do and in this case the Judiciary Committee has a relatively light schedule as compared with the Executive Departments Committee.

Adopted.

## INTRODUCTION OF SENATE BILLS AND RESOLUTIONS

First, second reading and referral

SB 1, providing for open and honest political campaigns in New Hampshire by requiring greater accountability and full disclosure of campaign contributions and expenditures; and protecting party loyalty by disqualifying defeated primary candidates from being nominated by petition under certain circumstances. (Nixon of Dist. 9; Sanborn of Dist. 17 — to Executive Departments, Municipal and County Governments.)

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances. (Nixon of Dist. 9; Downing of Dist. 22; Rep. Hall, Hills. 12 — to Ways and Means.)

SB 3, changing the compensation of certain state law enforcement employees. (S. Smith of Dist. 3; Nixon of Dist. 9; Spanos of Dist. 8; Foley of Dist. 24 — to Finance.)

SB 4, relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission. (Smith of Dist. 3 — to Resources and Environmental Control.)

SB 5, providing that a person cannot be denied unemployment compensation benefits if he refuses a job too distant from his home. (Trowbridge of Dist. 11 — to Judiciary.)

SB 6, relative to landlord-tenant relations. (Foley of Dist. 24 — to Judiciary.)

SB 7, relative to capital improvements to the Mount Washington summit and making an appropriation therefor. (Poulsen, Dist. 2; Smith, Dist. 3; Lamontagne, Dist. 1 — to Public Works and Transportation.)

SB 8, relative to the distribution of testate property following waiver of a will by surviving spouse. (Bradley of Dist. 5 — to Judiciary.)

SB 9, legalizing a special town meeting of the town of Wilmot. (Jacobson of Dist. 7 — to Executive Departments, Municipal and County Governments.)

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency. (Downing of Dist. 22; Brown of Dist. 19; Blaisdell of Dist. 10; Green of Dist. 6 — to Recreation and Development.)

SB 11, establishing a state historic preservation office and making an appropriation therefor. (Spanos of Dist. 8 — to Executive Departments, Municipal and County Governments.)

SB 12, to further protect the rights of mobile home owners by requiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks. (Nixon of Dist. 9 — to Judiciary.)

SB 13, establishing a combined horse and dog racing commission. (Spanos of Dist. 8 — to Ways and Means.)

SB 14, relative to election of delegates to the constitutional

convention from Berlin. (Lamontagne of Dist. 1 — to Executive Departments, Municipal and County Governments.)

SB 15, transferring permanent state prison employees from group I of the New Hampshire retirement system to group II or from the state employees' retirement system to group II, and making an appropriation therefor; and relative to retirement credit for William Grass, Jr. (R. Smith of Dist. 15 — to Finance.)

SB 16, expanding the definition of "industrial facility" under the industrial development authority to include post-secondary educational facilities. (Blaisdell of Dist. 10; Nixon of Dist. 9 — to Education.)

SB 17, relative to the New Hampshire Port Authority and making an appropriation therefor. (Foley of Dist. 24; Preston of Dist. 23 — to Public Works and Transportation.)

SB 18, providing cost of living increases for retirement allowances paid to currently active members of group I and group II of the N. H. Retirement System, the N. H. Firemen's Retirement System, the N. H. Policemen's Retirement System, the N. H. Teachers' Retirement System and the State Employees' Retirement System, and making appropriations therefor; providing for compensatory contributions for interrupted service and the submission of budget requests to the general court; and providing additional cost of living increases for certain retired members of the N. H. Teachers' Retirement System and making an appropriation therefor. (Nixon of Dist. 9; S. Smith of Dist. 3; Foley of Dist. 24; Spanos of Dist. 8 — to Finance.)

SJR 1, compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists and compensating Florence Pouliot for injuries suffered at the State House on June 13, 1973. (R. Smith, Dist. 15; Rep. Nelson Pryor. Coos 7 — to Finance.)

### SUSPENSION OF RULES

Sen. JACOBSON moved the Rules of the Senate be so far suspended as to allow the introduction of a Committee Report not previously advertised.

Adopted.

## COMMITTEE REPORT

## SB 14

relative to election of delegates to the constitutional convention from Berlin. Ought to pass. Sen. Jacobson for Executive Departments, Municipal and County Governments.

Sen. JACOBSON: This bill has to do with the shifting of voting of delegates to the Constitutional Convention from the statutory day of Tuesday, March 5, to the following Tuesday, March 12, the reason being that according to the Berlin method of voting, they vote in municipal election the following Tuesday. If this were not to be adopted, it would add an extra approximately \$5,000 cost to the city budget and, remembering that we are in rapid inflation at the present time, it seemed a reasonable assumption on the part of the Committee that this ought to pass and be carried forward so that the candidates for the Constitutional Convention can get out and campaign and know they are going to have that date of March 12.

Sen. BOSSIE: I am just wondering — and I really don't know — but has it been considered by the Berlin people that perhaps they could move the city election to the state election on March 5?

Sen. JACOBSON: That question was not raised and, recognizing the independence of local authorities, we did not tangle with that issue.

Sen. LAMONTAGNE: The Mayor and Council would have been very happy to do it if they could. It would mean a change in the City Charter and there would have to be a referendum. In checking with the Attorney General and the Secretary of State and with Legislative Services, they decided it would be a lot easier to change the election for the Constitutional Convention delegates. So far as the notices to be sent for the Constitutional Convention, that will stand as it is. The only thing that it changes is the election date from the 5th to the 12th.

Adopted. Ordered to Third Reading.

## SUSPENSION OF RULES

Sen. Foley moved the Rules of the Senate be so far suspended as to place on third reading and final passage at this

time: SB 14; that the Senate do now adjourn from the Early Session and when the Senate adjourns it be until tomorrow at 1 o'clock and we adjourn in honor of the 29th anniversary of the soldiers, sailors and marines who were on Iwo Jima, of which Senator Jacobson was one.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

SB 14, relative to election of delegates to the constitutional convention from Berlin.

Adopted.

### RECONSIDERATION

Sen. Lamontagne moved Reconsideration of SB 14.

Motion lost.

Sen. Sanborn and Sen. Provost moved the Senate adjourn at 1:00 p.m.

Adopted.

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## *Wednesday, 20Feb74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Almighty God, guide of our past years and hope of the future years — grant Thy help to the members of this Senate in order to insure tranquility of purpose. Provide for the common defense — promote the general welfare and secure the blessing of liberty to ourselves!

Remove every barrier which separates man from man, class from class, race from race, and fuse us into one mighty body heart to heart and mind to mind!

In the Redeemer's Name. . . .

Amen.

The Pledge of Allegiance was led by Mr. Bert Snay.



HOUSE MESSAGE  
HOUSE CONCURRENCE

SB 14, relative to election of delegates to the constitutional convention from Berlin.

ENROLLED BILLS REPORT

SB 14, relative to election of delegates to the constitutional convention from Berlin.

Sen. Paul Provost  
*For The Committee.*

Adopted.

ANNOUNCEMENT

CHAIR: I would like to explain to you what all the conferring has been about here in the Senate Chamber. Yesterday we adopted the Joint Rules as proposed by the Joint Rules and Senate Rules Committees. The House adopted the Joint Rules as proposed by the House Rules and Joint Rules Committees with one exception — that being an amendment offered by Rep. Daniell which is printed in the House Journal which you have before you and which provides this: that Conference Committees cannot amend the titles of bills coming out of their committee, nor can they add any amendments to a Conference Committee bill except such as are germane. It passed the House. It was a tie vote at first; a recount was called for and it passed the House 158 to 155. The net legal effect parliamentarily and otherwise of the adoption of that amendment by the House means that the Joint Rules have not yet been adopted. Until adopted by both bodies, there are no Joint Rules applicable. That being the case, we have before us today the question of adopting the amendment as offered and adopted by the House.

But before that, I have been in consultation with the Senate Rules Committee and with various members of the Senate who yesterday expressed some disappointment that bills that they had offered or were offering had not been approved for introduction and consideration at the Special Session. There are about six or seven bills at the most in that category. What I proposed to the Senate Rules Committee and what the Senate Rules Committee concurs in doing is that, if it be your pleasure,

the Senate here today admit those six or seven bills — the titles of which are now being prepared by Arthur Marx, Director of the Office of Legislative Services — *before* we take up the matter of the adoption of the Daniell amendment. The net effect of doing that would be to allow those bills, in a limited number, to be considered on their merits by both the Senate and also by the House without the necessity of a two-thirds admitting vote. This is our judgment and the Speaker has so indicated that is his interpretation of the situation. If they are admitted prior to our final adoption of the Joint Rules, instead of a two-thirds vote requirement in either house, only a majority will have to vote up or down on the bills to allow their consideration on the merits. Now the advantage of doing this, of course, would be to extend that additional courtesy to fellow members of the Senate to enter bills which may deal with crises or issues of importance which should be considered now. What the fate of these bills, or for that matter any other Senate bills, would be once they get across the wall is something that is beyond our control and, sometimes, our understanding. That is what we have been talking about.

I will take the blame for suggesting this procedure to you. It has been discussed with the Rules Committee and they are in concurrence. Before we go into any formal action in respect to it, I would be pleased, as would be the Senate Rules Committee, to hear any comments or suggestions any of you would like to make on this proposal which you would have to adopt by your formal action hereafter and today.

Sen. FERDINANDO: What are the bills?

CHAIR: I will ask Senator Bossie or Senator Jacobson and I believe Senator Sanborn had one.

Sen. BOSSIE: Three of the bills are from the Special Energy Interim Committee. As you know, with the crisis coming on last Fall, the President appointed this Committee, and the House concurred and they appointed a Joint Committee to work with us. We have been having hearings. It is very difficult under the circumstances to accumulate sufficient knowledge and information in regard to the problems because of the fact that the suppliers are not within the State; there is no source within the State; everything we hear is hearsay. Nobody of any great knowledge, other than the Director of our Energy Office

here in the State, was present. Generally lobbyists of various utilities came. It is very difficult to find what we are looking for. There are several bills which were considered last year and did not pass so, frankly, we are ahead of the game. One of them was the bill which passed the Senate quite overwhelmingly which provided a method by which public utilities terminated the utilities. As we have heard, in upper New York State several people have died as a result of being frozen because the utility companies turned off their source of energy. Subsequently and most recently, in Wisconsin the same thing happened again. I don't think there is anything wrong with our taking this up in view of the fact of what can happen. This is one of the bills being reintroduced.

Another bill is to establish a committee — in other words, to re-establish the committee that is working and give it subpoena power to enable us to have the various oil people subpoenaed before the committee to give us the information. Even after they do appear, as they did in Washington, we may not have any more information than we do now but at least we would like to know what we are up against. We want to have information first-hand so that we can report it back to the Legislature.

The third proposal is one dealing with a bill of rights for our retail gasoline dealers. As you know, they have great problems dealing with the national oil companies and securing rights. This will enable them to do what they have to in order to stay in business.

Sen. JACOBSON: Just one further word on the energy bills. Somebody may have listened on television last evening where a State Senator in New Jersey had conducted a little investigation and found tremendous stores of gasoline that have actually been kept from public view. That is the kind of thing I think we should be keeping on top of. The bill, as we intend to introduce it, gives us subpoena power which we did not have on the Committee appointed by our President. I think it was a very good thing that he did that and acted quickly. We at least got some information rolling on it and I think we are in a better position than if we had come in cold.

The other bills relate to a technical amendment on the planning board, the children's commission and public aid for private colleges.

There was another one — the Homestead Act — but we have already agreed we can work that into an amendment on SB 2.

Sen. SANBORN: At the present we have no Commissioner of Public Health and Welfare because of an apparent impasse between the Governor and Council and the Advisory Commission and the way the law is presently stated. My bill makes a slight change in the law — it requires the Governor and Council to appoint the Commissioner but it allows the Advisory Commission to still present names to the Governor and Council but they are not bound to only those two names. That is the only change it makes.

Sen. TROWBRIDGE: The City Attorney of Keene brought up a point to me that the municipalities do not have the proper authority to regulate cable TV the way they are now supposed to jointly regulate cable TV under the Federal Communications Act. He provided me with a bill and, if we are going to take up these other matters, I don't see any reason why we shouldn't at least see what the problem is there. That bill relates not only to the City of Keene but to all municipalities with cable TV.

Sen. LAMONTAGNE: I have two bills which I consider to be very simple.

CHAIR: Were they presented to the Rules Committee?

Sen. LAMONTAGNE: One was presented, but the other has been presented to the Public Works Department and it will be ready Tuesday. This is in reference to the Town of Clarksville.

CHAIR: Do you think there will be any difficulty in getting the two-thirds vote on those bills?

Sen. LAMONTAGNE: I don't think so. One of them is a Resolution. The only thing I am asking is for the matter to be introduced now and be referred to a joint committee of Public Works of the Senate and the House to bring in a report in December.

CHAIR: I don't think those have to be added to the list of those bills which Mr. Marx is bringing in now. I will ask the Clerk to read the list of bills by number and title.

SB 19, specifying procedures for termination of residential gas or electric services.

SB 20, providing for regulation of franchise agreements for the sale of gasoline.

SB 21, establishing a commission on children and youth.

SB 22, providing a limited tuition assistance to N. H. high school graduates who wish to attend accredited institutions of higher learning within the state.

SB 23, relative to planning boards.

SB 24, authorizing cities and towns to grant franchises to cable television companies, to regulate the rates charged to their customers, to regulate the quality of service rendered by them and to regulate the quality and quantity of locally-originated programs.

SB 25, providing for the nomination and appointment of the commissioner of health and welfare and directors of divisions of health and welfare by the governor and council.

SJR 2, establishing an interim committee to study oil companies and other energy suppliers.

CHAIR: In respect to proposed SB 25, providing for the nomination and appointment of the commissioner of health and welfare and directors of divisions of health and welfare by the governor and council, to be sponsored by Senator Sanborn of District 17, there are some questions as to the interpretation and application of existing law which the Advisory Commission on Health & Welfare would like to have answered by the Supreme Court and Senator Sanborn has kindly consented to have his bill be the vehicle for those questions to be referred to the Supreme Court in return for my guarantee that the decision of the Supreme Court in answering those questions, to the extent that I can give it — will be back again in time for the bill to be acted upon on its merits, which was his concern. Is that correct, Senator Sanborn?

Sen. SANBORN: That is correct.

Sen. BRADLEY: How would one distinguish this list from other bills which were presented to the Rules Committee and are not before us today?

CHAIR: I think this list encompasses most of the bills presented to the Senate Rules Committee.

Sen. BRADLEY: I am sure they don't represent all of them and that is what I am getting at. I have no objection to opening this thing up for more bills, *per se*, but I am concerned with the equity involved in explaining to constituents how we are now making exceptions for some bills and not for others.

CHAIR: That is the purpose of this proceeding right now. I would like this privilege extended to all senators within reasonable limitations. If there are any other bills any Senator would like to have included on this pre-Joint Rules admission procedure, they should be referred to immediately and now.

Sen. PRESTON: I am a little disappointed that some of the bills have been put in by some of the sponsors who very clearly indicated last October they were seriously considering limitations. Some mentioned 10 or 12 bills. I, for one, did not submit any bills as I did not think they were of an emergency nature. I will vote for these bills out of courtesy, but I think some of us are violating what was indicated in the minutes, which I just read, of our October meeting and we have opened up Pandora's box.

Sen. JACOBSON: I would just like to say that I have tried to follow consistent policy — I said the same thing on October 5. I believe we ought to handle as many bills as we possibly can. I have no objection to any bill. I think we are here for 15 days and with the program that we have established, the workload is not any greater. I am of the philosophy that if we are legislators, we should do everything we can to make New Hampshire a better place.

#### PARLIAMENTARY INQUIRY

Sen. PRESTON: If we submit additional bills, what will the reaction of the House be in relationship to our action?

CHAIR: Far be it from me to attempt to predict in advance the reaction of the distinguished House to that situation. I suspect there are some who have an interest in one or more of the bills in question who will be delighted to have an opportunity to have them heard on their merits. I suspect that there are others who will feel that we are considering too many bills.

I suspect that there will be a small minority who will think some attempt has been made to take advantage of the House in terms of the House-Senate relationship. I can only hope that the majority will see the sense and the orderliness and the reasonableness of the procedure which we are discussing with a view to accomplishing the goals of a limited agenda and, at the same time, considering some matters which are believed reasonably to be of concern to our State.

Sen. R. SMITH: If the list is still open, I would like to submit an act providing for retirement benefits for supreme and superior court justices. I do so because the suggestion has been made that we tack this on as an amendment to a retirement bill that is currently in the Senate Finance Committee. As long as the opportunity exists to have it fly on its own as a bill, on its own merits, I prefer that route. If you do not wish to have this introduced in this fashion at this time, then we will have to adopt the other route of tacking it on as an amendment. This makes it a little cleaner and a little clearer.

Sen. TROWBRIDGE: Senator Preston made a point about the House reaction. I would like to comment on that. Yesterday we adopted Joint Rules before the House did — no amendments, just as offered by the Committee. In the arguments on the floor of the House when the Daniell amendment came up, George Roberts, the Majority Leader, was saying — “Better adopt these Joint Rules because if you put on an amendment, then you open the situation to some bargaining between the two houses.” The House, in its wisdom, opted to adopt the Daniell amendment, thereby saying in essence, “We don’t like the Joint Rules as they are; we want our conditions over here” — the non-germaneness of amendments — which, of course, does cut off some flexibility on our side when they do that. So we are now saying, we are willing to adopt the Daniell amendment, but it is not because of any lack of comedy with the House or unfriendliness, but just at this point if they are going to maneuver on the Joint Rules, then perhaps it is right to take up some of the bills that Senator Bossie and others — even I — have. I think you have explained it on the basis that we had the chance of having the Joint Rules adopted as submitted; the House did not take that route; why should the Senate really feel embarrassed to have taken another side of the route?

Sen. LAMONTAGNE: After hearing this discussion, I feel

a little worried about the Daniell amendment if it is adopted by this Senate. The bill for Clarksville which I had proposed — and I have talked this matter over with the Honorable Senator from the 2nd District — I was going to propose it as an amendment to a bill. But because of the Daniell amendment, I am a little worried about it. Now I think I want to put it into a bill.

CHAIR: As I understand it, your concern is you will be, by adoption of the Joint Rules, prohibited in some way from attaching the matter as an amendment to an existing bill. The Daniell amendment so-called, which was actually a recommendation of the Ad Hoc Interim Joint Rules Committee prior to the last Session of the Legislature which had among its members Senators Downing, Green, Spanos and myself, would only prohibit non-germane amendments with respect to bills in Committees of Conference. You are talking about amendments to be offered to a bill in the first instance. Your subject matter would not be prohibited by the adoption of the Joint Rules with the Daniell amendment.

### SUSPENSION OF RULES

Sen. S. Smith moved the Rules of the Senate be so far suspended as to allow the list of bills in the hands of the Clerk to be read a first and second time and referred to the proper committees.

Adopted.

### INTRODUCTION OF SENATE BILLS AND JOINT RESOLUTION

First and second reading and referral

SB 19, specifying procedures for termination of residential gas or electric services. (Bossie, Dist. 20; Jacobson, Dist. 7; Claveau, Dist. 14 — To Judiciary) .

SB 20, providing for regulation of franchise agreements for the sale of gasoline. (Bossie, Dist. 20; Jacobson, Dist. 7; Claveau, Dist. 14 — To Executive Departments, Municipal and County Governments) .

SB 21, establishing a commission on children and youth. (Jacobson, Dist. 7 — To Public Health, Welfare and State Institutions) .



SB 22, providing a limited tuition assistance to N. H. high school graduates who wish to attend accredited institutions of higher learning within the state. (Jacobson, Dist. 7; Green, Dist. 6 — To Education).

SB 23, relative to planning boards. (Jacobson, Dist. 7 — To Executive Departments, Municipal and County Governments).

SB 24, authorizing cities and towns to grant franchises to cable television companies, to regulate the rates charged to their customers, to regulate the quality of service rendered by them and to regulate the quality and quantity of locally-originated programs. (Trowbridge, Dist. 11; Green, Dist. 6; Blaisdell, Dist. 10 — To Public Works and Transportation).

SB 25, providing for the nomination and appointment of the commissioner of health and welfare and directors of divisions of health and welfare by the governor and council. (Sanborn, Dist. 17 — To Public Health, Welfare and State Institutions).

SB 26, providing for retirement benefits for supreme and superior court justices. (Smith, Dist. 15; Smith, Dist. 3 — To Judiciary).

SJR 2, establishing an interim committee to study oil companies and other energy suppliers. (Sen. Bossie, Dist. 20; Sen. Jacobson, Dist. 7; Sen. Claveau, Dist. 14; Sen. Porter, Dist. 12 — To Public Works and Transportation).

### MOTION TO VACATE

Sen. Trowbridge moved the referral of SB 24 to Public Works & Transportation be vacated and the bill be referred to Executive Departments, Municipal and County Governments.

Adopted.

### HOUSE MESSAGE

### CONCURRENT RESOLUTION

The House of Representatives has passed the following House Concurrent resolution, relative to the joint rules, with the following amendment:

Amend proposed joint rule 23 by striking out the same and inserting in place thereof the following:

23. No action may be taken in either house on any committee of conference report until a copy of said report has been delivered to the seats or placed on the desks of all members. A committee of conference may neither change the title of any bill submitted to it nor add amendments which are not germane to the subject matter of the bill as originally submitted to it.

The House asks the concurrence of the Senate in the passage of the resolution as amended.

### SENATE CONCURRENCE IN HOUSE AMENDMENT

Sen. S. Smith moved adoption.

Sen. BOSSIE: Would you interpret for us legally how you would define the proposed amendment.

Sen. S. SMITH: I am not a lawyer so it is hard for me to interpret these things. As I understand it, this amendment says that there shall be no amendments made which are not germane to Committee of Conference reports.

Sen. FERDINANDO: Do I understand correctly that would mean that after the deadline for introduction of senate bills when we are at a point where amendments are the only things that are being considered in Committees of Conference, if any Senator had a problem in his District — emergency legislation — under no circumstances would you be able to amend the bill in an existing Committee of Conference?

Sen. S. SMITH: Yes. You understand it correctly, I think. It doesn't say you can't amend a bill that is in the possession of a committee. As we have adopted the Rules, for the first 12 days there will be bills in committee. But once it has gone to the Committee of Conference, which will be basically the 13th and 14th days of the Session, then you cannot amend. If you have a bill, under the Joint Rules, which you feel is of an emergency nature and for some reason you can't place this on another bill as an amendment, you have another alternative — that is to go to the Rules Committee to have them introduce that piece of legislation and, if they won't do it, you go to the body of the Senate to get a two-thirds vote to introduce it. Then it can be introduced and has to go to the House for a similar ruling. There are ways to do this other than simply amending a bill. This is just a prohibition against a Committee of Conference

amendment and, as a matter of fact, as I remember during the first of the '73 Session we were attempting to adopt a very similar rule here in the Senate.

Sen. JACOBSON: As I read this amendment, this does not prevent the Committee of Conference adding any amendment that is, in fact, germane, such as adding another appropriation item to the existing appropriation bill. Is that correct?

Sen. S. SMITH: That would be correct.

Sen. DOWNING: I rise in support of the existing motion. I would like to point out or expand a little bit on the comment by the President relative to the position of the Senate Ad Hoc Committee on Joint Rules. This bill — and I am delighted that Representative Daniell is present in the Senate Gallery today because when the Joint Rules went before the House for adoption he was somewhat disturbed, that is during the regular session, at this area of the Joint Rules. As I recall, he had some unfavorable comments or inference at least to the influence of the Senate in bringing that type of rule about. I explained to him at the time that quite the contrary was true; that the Senate was in favor of this type of rule, that, in fact, the President of the Senate in Committee had initiated specifically that type of rule, that all members of the Senate present and involved in the discussion supported it and it was, in fact, the members of the House who opposed it and the Senate was not deserving of the remarks which he offered in the House relative to that aspect of the Joint Rules. The Senate has, to my knowledge, since the Joint Rules discussion since the past regular session began been in favor of this position relative to Committee of Conference reports and I think we should support that position now.

### PARLIAMENTARY INQUIRY

Sen. BRADLEY: If the bill is amended in a germane way, in such a way to make the title of the bill then an inappropriate title, it would seem to me that you ought to be able to amend the title so long as the change in the title is a germane change. It seems to me the rule is ambiguous on whether the words "not germane" modify both the title and the amendment.

CHAIR: The Chair's interpretation of the Daniell amendment is that the title of a bill coming out of a Committee of

Conference cannot be changed in its entirety. I do not think the amendment was intended to preclude any addition to the title which would explain a germane amendment. I think the evil that the amendment was designed to prevent is a situation where a bill relating to the width of trucks goes to a Conference Committee and then a bill relating to raises for judges comes out of the Conference Committee. I think that is the best answer I can give to your Parliamentary Inquiry. The only other answer I can give is I think the proposed amendment should be adopted.

Sen. BRADLEY: I have had some experience with this beginning with the time I had a bill on writs that kept coming back with sheriff's retirement and then the Dover Port Authority or something. I asked the question of the Speaker of the House at that time how we could prevent it and he said the only way I know is to have a unicameral legislature. Maybe this is the answer. But my question really is on this point — suppose the Committee of Conference does it and it comes back, what then happens? Does the Chair rule it is germane or not germane subject to the over-rule of the house involved?

CHAIR: That would be my understanding.

Amendment adopted.

### COMMITTEE REPORT

Sen. Ward Brown for the Committee to Refurbish the Senate Chamber.

Sen. BROWN: The Committee met last Summer to decide how to go about the refurbishing of the Senate Chamber, just what era we would try to hold to, what type of lighting fixtures, paint, etc. It got so involved and none of us were experienced decorators or designers that we decided we would hire someone with some expertise in that line. There is an organization in Cambridge, Massachusetts which registers and certifies interior decorators. The name of that organization was given to me by Sen. Trowbridge. We contacted them and asked for people in this category in the State of New Hampshire. They came up with two or three and we contacted them and we chose a Mr. G. Jackson Jones from Keene, New Hampshire.

We met again and decided what we would do. This was

decided with Mr. Arthur Petell, Superintendent of the Buildings and Grounds. Utilizing his staff we would first of all repaint the Senate Chamber — patch up all the cracks, etc. It was decided to use colors very similar to what we have now because of the highlighting of the murals. We felt that a darker color would deaden them and we are pretty proud of them. We selected colors which are pretty much the same as are on there now. I have a chart of the proposed colors here if anyone desires to see them. Total cost for paint and everything would be \$1,000 and that is a firm figure.

Then we went to the next subject — the carpet. Color also was a big problem here. With the help of the President of the Senate, the Committee, Mr. Petell, Mr. Peale, etc., we decided on what the company calls "Piping Rock Berkshire Green." This is a sample. We decided that where prices are going up continually we felt we should put out a firm bid, which we did last Fall, to buy the rug now and with a figure also to include the installation. We set a target date to start refurbishing the Chamber as of April of 1974, the reason being that we did not want the disarray to interrupt the business of the Special Session.

On the lighting, we decided to go back to the chandeliers which were originally installed in the Senate Chamber when it was built. There are 5 of them — one in the center and two at each end. They have 24 lights — 12 which point down and 12 which point up — with supplementary lighting to prevent shadows. They would be on a rheostat switch so that you could dim or brighten them as needed. We have not had a firm figure on that but we have talked with numerous people and informal bids vary from \$11,950 up to \$15,000. A firm proposal has been put out and I will enlighten you as soon as we get the final figures.

On the sound system, I think you are all familiar with the poor reception we get on the type with the present system. We found by talking with numerous communications organizations that the individual microphone would be the best. This is not an amplifying system. It is strictly to record what is said. We decided on 26 microphones, one at each Senator's desk, one for the Clerk's desk and one at the President's podium, with a console to be placed where our Senate Recorder presently sits with control by a button for the recorder to turn the microphones

on or off as required. This particular type of system was installed in the State of Maine 3 years ago and has proved very successful. We do not have a firm figure on that particular part as of now. We have had informal figures through discussions with these people and they run anywhere from \$7,500 up to \$17,000. We are in hopes we can come in with a firm figure between \$9,000 and \$10,000.

If we do not exceed the appropriation of \$40,000 once all firm figures are in, we do propose to renovate the rest room off the Sergeant-at-Arms room. What brought this about is we have statutes in the State relating to architectural design in public buildings for handicapped people and we do not meet the standards there. In order to meet the standards, we thought we might just as well do the whole thing over and have a nice room, if the money allows. If the money does not allow us to do it, we will have to forsake that and perhaps come back and ask for a little more money or do it at another time.

Sen. FERDINANDO: Is there any chance of considering only one coat of paint and using the money for air conditioning so that we could be a little bit more comfortable in the summer?

Sen. BROWN: First of all, I don't believe saving one coat of paint would pay for an air conditioning system. It is much more expensive. I think once this paint is washed down and a new coat put on, only one coat will be needed.

Sen. DOWNING: In your description of the carpeting and the purchase order copy I read there is no reference as to whether it is anti-static.

Sen. BROWN: Yes it is. We requested anti-static. Also, we had a little problem with the rug because of the fire code but we did meet it.

Sen. R. SMITH: Are we gilding the chamber or merely repairing the gilding?

Sen. BROWN: The figure of \$350 which was received to patch up the gold leaf is strictly where it is coming off. There are one or two small places. The figure of \$350 is not to do the whole thing.

CHAIR: I would like to commend the Committee for its work to date.

Sen. Porter and Sen. Spanos moved the Committee Report be printed in the Senate Journal.

Adopted.

Sen. Porter and Sen. Spanos moved the Report of the Committee on the Sire Stakes Proposal be printed in the Senate Journal.

Adopted.

Sen. Foley moved the Senate do now adjourn from the Early Session and that when the Senate adjourns today, it be until Tuesday, February 26, at 1 o'clock.

Adopted.

### LATE SESSION

Sen. Trowbridge and Sen. McLaughlin moved the Senate adjourn at 2:25 p.m.

Adopted.

### APPENDIX

#### REPORT OF THE SPECIAL SENATE COMMITTEE ON THE PROPOSED SIRE STAKES PROGRAM FOR THE STATE OF NEW HAMPSHIRE

The concept of a Sire Stakes Program is not new. There are a number of other states who have such programs. Of the fifteen states that have standardbred racing, twelve of them have some form of a Sire Stakes Program.

What is a Sire Stakes Program? It is a program that establishes a fund for the support of Stake Races for standardbred horses. The program is intended to give incentive to people in the harness racing industry to raise and race their top horses in New Hampshire. With such a program, it becomes economically possible to have and maintain a farm for the purpose of raising top notch harness racing horses. The purses/awards created by the Sire Stakes fund will become the motivation necessary to improve standardbred racing. The better the racing programs, the greater the opportunity for improved financial returns to the state. "A Sire Stakes is a race restricted to the offspring of a stallion which stands at stud service in the state where the race is held. The purse for such races is usually derived from a per-

centage of the pari-mutuel handle in the particular state plus entrance fees, sustaining fees and starting fees" according to the United States Trotting Association.

The Committee being concerned with the decrease in racing revenue, looked carefully at the financial situation in other states that have a Sire Stakes Program. In these other states, the evidence supports the fact that the pari-mutuel handle increased and thus more is collected by the state as revenue.

Briefly, some of the benefits of such a program are:

It would benefit the average broodmare owner by making the offspring more valuable because they are eligible to run for purses specifically for New Hampshire bred horses. It would benefit the stud owner by making his stud or studs more in demand and therefore more valuable. It would benefit the driver-trainer by providing more and larger purses for which he would compete and provide more and better stock for him to drive. There would be a growing number of yearlings to be trained locally, providing more work for trainers and grooms. The increased number of horses in the state would require more farm land, grain, fences, and trained personnel to care for them. It would benefit the fan by providing more and better racing. It would benefit the Fairs by providing additional purses, an added attraction, and better racing. The pari-mutuel tracks would similarly benefit, and the pari-mutuel handle would certainly increase. All of this would boost the economy of the state.

The Committee spent much time discussing the best way to finance such a program. After reviewing alternatives, it was decided that the fund should come from harness racing "breakage" and not tax monies. This breakage represents the odd pennies remaining after payments to holders of the winning tickets are rounded off to the dime.

The Sire Stakes question has had numerous public hearings and in each case all testimony has been in favor of such a program.

As a result of this study, the Committee wishes to make the following recommendations:

1. The State of New Hampshire should support the concept of a Sire Stakes Program.
2. Any legislative bill dealing with a Sire Stakes Program should use "breakage" as the way of financing. The present bill



for the 1974 Special Session (S.B. No. 10) is considered an excellent piece of legislation. This bill will establish a good foundation for the beginning of a Sire Stakes Program.

3. That New Hampshire Standardbred racing needs a "shot in the arm" to reduce the potential for loss of revenue to the state.

This report is based on the consensus of the entire Committee, and does not intend to convey that every member is in complete agreement with it's entire contents.

Respectfully submitted,

Richard Green, Chairman  
Senator Clesson Blaisdell  
Senator Delbert Downing  
Senator Ward Brown  
Senator Harry Spanos  
Senator Roger Smith

Supporting documents are available from the committee.

#### PROGRESS REPORT COMMITTEE TO REFURBISH THE SENATE CHAMBERS

On July 26, 1973 the Committee to Refurbish the Senate Chamber met and concluded that to stay within the original style and design of the State House, it would be necessary to obtain the services of a professional interior designer. It was so voted and Mr. G. Jackson Jones of Bowler, Jones and Page, Inc. of Keene, New Hampshire was hired at 10% of the total cost of the project. Not to exceed \$40,000.00.

The committee met four subsequent times with Mr. G. Jackson Jones, Mr. Richard N. Peale, Director of Purchase and Property, Mr. Arthur L. Petell, Superintendent of Building and Grounds, Mr. David V. Dickey, Mr. Conrad B. Desmarais, and Mr. J. David Soper, Public Works and Highway Engineers in attendance. The following resulted:

April 1974 was designated the starting time of renovation so to not interfere with the business of the Special Session.

With the approval of Mr. Arthur Petell, Superintendent of Buildings and Grounds, his staff will perform the following

work: Refinish the podium and clerk's desk to match the finish of the existing furniture as close as possible, wash and repair cracks and joints in the Senate Chamber, Gallery, Sergeant-at-Arms rooms and rest room, and paint same using colors chosen by the committee to closely match the existing colors. Estimated cost \$1,000.00.

It was agreed to install wall to wall carpet and padding in the Senate Chamber, Sergeant-at-Arms rooms, and for runners in all aisles and in front of each section of seats in the Gallery. Estimated cost \$3,607.25.

Mr. G. Jackson Jones has arranged to have repaired the gold leaf on the scales on the upper portion of the Senate walls. Estimated cost \$350.00.

In keeping with the original design of the Senate Chambers, the committee decided to return to chandelier type fixtures with supplementary recessed ceiling lights. Additional lighting will be installed in the gallery. Estimated cost of fixtures and preliminary wiring is \$11,940.70.

After consulting with persons knowledgeable in the field of communications systems, the committee found it advisable to provide twenty-six microphones: one for each Senator's desk, one for the podium, and one for the Senate Clerk. The microphones will be manually controlled from a central control console. Based on informal quotations received to date, the committee is hopeful the recording system will not exceed \$9,000.00.

Proposals for the recording and electrical systems have yet to be finalized. However, if funds allow the renovation of the chamber restroom, the committee feels this is an opportune time to do so. Estimated cost \$6,200.00.

Although the estimates for most of the work proposed in this report were received in 1973, which totals \$36,097.95, it is hoped that inflation will not force the final figure above the appropriated \$40,000.00.

Respectfully submitted,

Sen. Ward B. Brown, Chairman  
Sen. Clesson J. Blaisdell, V. Chairman  
Sen. Robert F. Preston  
Sen. Roger A. Smith  
Sen. C. R. Trowbridge

Supporting documents are available from the committee.

*Tuesday, 26Feb74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Hear our prayer O Lord, as we begin our work this day.

Where there is strength of purpose, there should always be a humble willingness to listen, so we may again weigh our own thoughts and strengthen this Session by so doing.

Let wisdom be our guide, so peace will rule our hearts.

In Thy Name we ask.

Amen.

The Pledge of Allegiance was led by Senator Bossie.

### COMMITTEE REPORT

Sen. POULSEN: The Rules Committee has met and agreed to accept the following bill as part of our agenda: An Act to better protect the safety of New Hampshire citizens and law enforcements officers by authorizing capital punishment under certain circumstances consistent with the New Hampshire Constitution and decisions of the supreme court.

Sen. LAMONTAGNE: Is this in reference to the report from the courts on capital punishment?

Sen. POULSEN: Yes it is. It is in relation to capital punishment for certain types of crimes. Apparently, it has become very necessary at this moment.

### PARLIAMENTARY INQUIRY

Sen. JACOBSON: What is the Motion?

CHAIR: The offer is from the Rules Committee in introducing a bill under the Rules adopted for the Special Session. This bill is SB 27. Under the Rules adopted for the introduction of bills — the Joint Rules — they can be introduced either through the Joint Rules Committee or under suspension of the rules by a two-thirds vote of both bodies. In this case, SB 27 is offered by the Senate Rules Committee.

(Sen. Jacobson in the Chair)

Sen. NIXON: As you know, over the past week there have been events in Georgia and California and more recently, unfortunately, in Bedford, New Hampshire, which have caused the Attorney General of New Hampshire, the Honorable Warren G. Rudman, to express concern about the fact that there is no provision for capital punishment under the law of New Hampshire within the limitations set down by the Supreme Court. Disappointment was expressed by the Honorable Attorney General at the fact that no vehicle for consideration of whether or not capital punishment should be allowed to be imposed under any circumstances was available to the House and Senate during this 1974 Special Session. After discussion with the Attorney General and, I might say, with Governor Thomson, it is my judgment, and I hope it will be yours, as it is the Rules Committee's through whom the bill has been offered and is now before you, that this type of an issue warrants consideration in New Hampshire at this time. As you know, legislation of this nature was offered at the last session and then unsuccessfully referred for interim study and then before the Joint Rules Committee. The events which have transpired since then, plus increased concerns expressed by members of the public as well as the highest officials in the law enforcement field, have indicated to me that this is a subject which we ought to consider on the merits within the time limited to us. It is on that basis that the bill is now offered before you.

What the bill would do, without getting into the merits and details because, of course, it will immediately be referred to the Judiciary Committee for the wisdom of that committee, if adopted in the form in which it is offered, is permit the imposition of capital punishment in cases where murder — capital murder as described in the bill — occurs in connection with purposeful or premeditated acts, kidnapping, sexually related crimes or if the murder is of a law enforcement officer in the course of his duties or a high government official — Senator, Congressman, Governor or Governor-elect. I might say that I have no personal stake in the bill inasmuch as the President of the Senate, or any other Senator, is not protected. The bill does provide for capital punishment in the form that historically and traditionally has been administered in New Hampshire up until the Supreme Court decisions of several years ago ruled capital punishment unconstitutional. That is the bill in essence. It provides for a lesser related murder — non-capital murder —

which is in essence unpremeditated murder or death arising out of circumstances which do not involve kidnapping again, kidnapping and/or extortion and I might say, the possession of a weapon and the other cases where the death penalty application can pertain. That is the substance of the bill. I submit it, as indicated, through the Rules Committee for your admission to the orderly process in the Senate — public hearing before the Judiciary Committee and consideration by this body as a whole thereafter.

Sen. LAMONTAGNE: Did I hear you correctly that if this bill is passed capital punishment will be hanging?

Sen. NIXON: Capital punishment would be administered in the traditional way and that is the way New Hampshire has in the past effected it. Yes.

Sen. SPANOS: I am on the Rules Committee and I support the introduction of this measure which is being presented to you in this body by the Attorney General and by His Excellency the Governor. I do so with some reservation in bringing it before you for the simple reason that I have known the past history of capital punishment legislation. It always seems to emanate at a period of time when hysteria and emotion are rampant throughout the land and one of the problems we have today is to have the kidnapping situation in California and the situation that occurred in Georgia, and now we have the young lady in Bedford. One of the reasons why we have run afoul in many instances in the past over capital punishment legislation is the fact that we have not done our homework with the law and that we have rushed it through without any great time or effort involved in its establishment.

I would like to say that I rise reluctantly in support of introducing this measure because, if the President of the Senate and if the Attorney General and if the Governor of the State of New Hampshire feel this is a matter that should be considered at this time by this legislative body, then I will not stand in the way of its going through the normal, orderly procedure of consideration by the Senate.

Sen. LAMONTAGNE: If this bill is adopted — don't misunderstand me, I am all for it because I think certainly New Hampshire should have capital punishment — but as you know we have had a law on the books for many years for

capital punishment. Therefore, we had cases like the Martineau case and these two finally ended by getting a free ticket, getting out of being hung when they should have been hung because it was a court decision. Now, if this bill is enacted into law, will they be able to escape from the provisions after being committed by courts? Are they going to go loose after a certain amount of years? Is this going to be the effect?

Sen. NIXON: I do not know, Senator. But, in the opinion of the Attorney General, whose staff has been working on this project for some time, this bill will permit the imposition of the death penalty under the restricted circumstances set forth in the bill which purportedly are within the guidelines established by the recent supreme court decisions. Whether or not a particular person, at a particular time, under particular circumstances would be subjected to the penalty will depend upon the judgment, wisdom, expertise and, I should say, interpretation of this law at some other time than today. So, I don't know the answer to your question.

Sen. BRADLEY: I will not object to the introduction of this bill, but I do have serious reservations on the merits of the bill. I do think at this time that I should alert this body to some of my reservations. If we were really imposing a rule that only emergency measures were to come before this body, I might feel differently. I cannot conceive of this bill as being an emergency bill. I do not see any emergency this bill is going to cure. However, since we have let in many bills which, by no stretch of the imagination, are emergencies, I have no objection to this bill coming in on its merits.

However, just a couple of points on this. We point to the states of Georgia and California where there recently have been kidnappings and this is held up as a reason to become hysterical and to do something rash, perhaps, here in New Hampshire. However, both Georgia and California happen to be states that already have the death penalty and it did not seem to stop the kidnappings there. That is getting a little bit to the merits of the issue and I do not really think we should debate the merits today.

But let me also raise another serious concern which I have. This matter is a very serious matter. It has been debated a lot of times in this Legislature over the years. This last Session, as

many report, the bill came up and it was referred to a study committee — a joint committee involving the two Judiciary Committees of the two houses and the Judicial Council. The Chairman of that Joint Committee happens to be the Attorney General who has never, to my knowledge, even called a meeting to discuss this particular bill. So, I am a little bit concerned that we are somehow here trying to short circuit the normal legislative process that is taking place, or should have been taking place, to claim that this bill was an emergency needing immediate action. As Chairman of the Senate Judiciary Committee, I am perfectly happy to have this bill come before us and to have a public hearing and have it debated on its merits, but I don't want the thing to start off on the foot that there are no questions to be raised on this matter. I suggest there are a number of very serious questions which do need to be raised and debated at length.

Sen. DOWNING: I rise in opposition to the pending motion. With all due respect to the Rules Committee and the Senate President and Vice President and Governor and Attorney General, I think the question at this point is: are you in favor of capital punishment or aren't you? I don't think it has to go to a committee hearing. I don't think we have to take up the time of the Senate or House with this process. We don't have it on the books now. Either you think it belongs there or you don't. I am not sure that there are really many people in this Chamber who don't have a positive feeling about it one way or the other. I fully appreciate the need for some people to probably play to the press or play on the emotions of many of our citizens, but I don't think there is any place for it now in this session, in this Chamber. I don't think there is any place for it in this State. I would point out to my colleagues that it takes a two-thirds vote of this body to suspend the rules to permit the introduction of this type of legislation and I think it is the ideal place to stop it. It was taken up during the last Session. It was studied quite thoroughly. There was no positive report that would pass the Rules Committee coming into this Session and I see no reason for it now. If it is accepted, I hope it goes on to be defeated, but I would hope you would not even permit it in, or certainly that the majority of you would not be in favor of putting it in for any discussion whatsoever.

CHAIR: The question will require only a majority vote

as per the Rules. Since it has received the approval of the Rules Committee, it requires only a majority vote to accept the resolution.

Sen. JOHNSON: Was this matter or this bill presented to your Committee before and turned down?

Sen. POULSEN: No, it was not.

Sen. BOSSIE: Was this matter presented to the House Joint Rules Committee or the House Rules Committee?

Sen. POULSEN: Not to my knowledge.

Sen. BOSSIE: Would the Chair please state, to its knowledge, whether this matter had been considered by any Rules Committee prior to the time of this Session. It seems every other bill was considered by this Committee. Why was not this bill?

CHAIR: The Chair will state to his knowledge, it was not; but his knowledge is imperfect.

Sen. LAMONTAGNE: I am not afraid to stand up on my own two feet before the Senate and say that capital punishment is needed in this State. I think that right now we have a bill that is before us; it has gone to the Rules Committee and the Rules Committee came in with a favorable report, and I think it should be acted upon and we should vote according to our own conscience. So far as I am concerned, my conscience is that we should vote on it and I hope that it will pass. How can anybody say there isn't any emergency in this type of bill with all the crimes there have been and, at the same time, the crimes that have been happening in our neighboring states — of course, it has no effect there — but if anything ever happened like the Martineau case where these people came from another state and came into our state, then we ought to be prepared to hang them if they do wrong.

Sen. DOWNING: What basis do you have for feeling that capital punishment is a deterrent in any way whatsoever toward these capital crimes?

Sen. LAMONTAGNE: I feel in New Hampshire we have crime and, if we don't have crime we would not have a Crime Commission. I think if we have a Crime Commission, I think what we ought to have is to have laws that let the courts punish people who do wrong.



Sen. DOWNING: Were you listening when the distinguished Senator from the 5th District stated that some capital crimes which you have alluded to were committed in states that have capital punishment?

Sen. LAMONTAGNE: Yes. I did hear it. But it won't hurt New Hampshire to have the same laws here in this State so that people here aren't put into a state institution and then, after ten years, they can get out.

Sen. DOWNING: Don't you feel it would be better if we would avoid rehashing something that has been proven wrong; it has been proven false; it has been proven that it isn't really a deterrent, and have people offer something with a little more imagination, maybe a new approach to an age-old problem, rather than this same thing coming before us?

Sen. LAMONTAGNE: You claim that this has been proven in the past as wrong. We have many laws that have proven to have been wrong. I will agree with you on that subject. But it is a lot better to have something on the books that you can refer to so that the courts can turn around and see about enforcing. I was very surprised to see in the Martineau case that the court had convicted these persons to hang and these two did not hang. That I could not see. But then, after reading something of the matters that have been happening in our federal government which overruled some of our state laws, I think it is wrong. Certainly the way that the statutes are today when anybody can go around and murder people and then go to court and be put into an institution and then after ten years they can go free — that I don't believe.

Sen. BOSSIE: You stated you consider this to be an emergency measure. Would you please enlighten the gentlemen and ladies of the Senate and advise us when the last person was executed in the State of New Hampshire.

Sen. LAMONTAGNE: It has been a long time.

Sen. BOSSIE: Hasn't it been about 35 years?

Sen. LAMONTAGNE: Yes, it has.

Sen. BOSSIE: Is that an emergency then?

Sen. LAMONTAGNE: We have had a lot of these people here where the courts have ruled it will be a life sentence in

our state institutions while we had capital punishment, that I will agree with. But, at the same time, we have a good example when the courts ordered these two persons hung and the wishes of the court were not carried out by the officials of this State.

Sen. BOSSIE: The fact remains, Senator, that it has been over 35 years since the State of New Hampshire has executed anyone under a capital punishment law. Is this not true?

Sen. LAMONTAGNE: With the exception of what happened on the Martineau case where the courts said execute and they were not executed because one of them is out free now, and he shouldn't be.

Sen. CLAVEAU: I rise in opposition to the pending motion for two reasons. One reason is that I don't think it is an emergency and the second reason is that I have always been against capital punishment. I don't think that the State has any more right to kill than an individual and I think we should eliminate the middle man and kill it right now.

Sen. S. SMITH: I rise in favor of the motion. I have constantly been opposed to the concept of capital punishment. When it has arisen, I have voted against it. I think today we are living in a state and in a nation which is, to a great degree, ruled with fear and hate. I do think, however, that this argument is not settled, it is not resolved and I think it can be seen from the debate and discussion here it should once again come before the Senate to be considered. It is my hope — and I will say this as an individual and not as a partisan of any type — that I hope and pray this bill will be defeated. But I think at this time once again to have the bill come before this Senate, before this Legislature, to consider this most serious, probably most serious of all bills which will come before this legislative Session. I think that the Constitution talks about the true design of all punishment being to reform not to exterminate mankind. This should be taken seriously when a later vote is taken on this measure. But I think it is imperative, so that we are not considered lacking in our responsibilities or duties, so that we are not accused of shifting the burden off our shoulders at this time, that we adopt this resolution.

#### PARLIAMENTARY INQUIRY

Sen. GREEN: As I read the Joint Rules — No. 10 — it is

my understanding that the final date for vacating or doing something with this particular bill would be March 7. Is that correct?

CHAIR: According to the procedure accepted, you have stated the correct date.

Sen. DOWNING: Don't you feel this bill is, in fact, being debated by this body right now?

Sen. S. SMITH: I think it will have much greater deliberation by the public coming before a committee and by further deliberation by members of this Senate once they have had the opportunity to think more fully upon the subject. I think, too, as I indicated, that we are living in a state of fear and of hate and of revenge as of this moment and I think we should evaluate our thinking and come in as reasonable men and women to evaluate this question.

Sen. DOWNING: Did I understand you correctly to say that you always opposed capital punishment? You will oppose the reintroduction of capital punishment again, but you are supporting the further consideration of this bill?

Sen. S. SMITH: Right. I do not think that we should censor ourselves on this issue.

Sen. GREEN: Do you feel that one more week of deliberation on this particular topic is going to allow this to have the kind of exploration you are discussing at this point in time?

Sen. S. SMITH: I think it will. There were some new thoughts presented here today briefly. I had not given consideration to what Senator Bradley said in relation to capital punishment being in fact in both Georgia and California. So far as was mentioned the Martineau case, I don't think this would even apply to this piece of legislation from the brief, cursory view I have had of it.

Sen. GREEN: You are saying you believe more information will come to light in one week's time which possibly would have the effect of changing people's minds as they feel about this issue right now?

Sen. S. SMITH: I think it may change some views and I hope in the way in which I feel.

Sen. FOLEY: According to your bill, will the capital punishment be by hanging?

Sen. NIXON: Yes, it will. The bill is drafted by the Attorney General's staff and that is the manner in which they drafted the bill. If the bill is admitted for consideration by the Senate, however, it will of course, be referred to the Senate Judiciary Committee where the input of all Senators and all interested members of the public and all law enforcement authorities in the State can be received in public hearing and amendments can be made. I might say again that I appreciate the expressions with respect to the merits of the issues both ways by my distinguished fellow Senators and the only purpose of this bill is to get the issue considered at this Session in view of the extreme necessity for it being so considered as publicly stated on many occasions, particularly recently by both the Attorney General of New Hampshire and the Governor of New Hampshire. I would want the people of New Hampshire to know that the Senate is willing to serve even an issue of this magnitude in this Special Session regardless of how the Senate ultimately makes its decision on the issue as to its merits.

Adopted.

## INTRODUCTION OF SENATE BILL

### First, second reading and referral

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by authorizing capital punishment in certain circumstances consistent with the New Hampshire Constitution and decisions of the supreme court. (Nixon of Dist. 9 — To Judiciary)

## SENATE RESOLUTION

Sen. Sanborn moved adoption of the following Senate Resolution:

*Whereas*, as of December 1, 1973 the resignation of former Commissioner of the Department of Health and Welfare Gerard Zeiller became effective; and

*Whereas*, said Commissioner has vacated his office and the authority and responsibility to administer and direct the department is vacant; and

*Whereas*, RSA 126-A:4 provides the Advisory Commission of the Department of Health and Welfare shall nominate two

candidates for the office of Commissioner of Health and Welfare; and

*Whereas*, the Advisory Commission has nominated and presented to the Governor and Council their nominees for said office; and

*Whereas*, the Governor and Council have refused to appoint a Commissioner from said nominees and as a result a conflict exists between said Advisory Commission and Governor and Council; and

*Whereas*, the Governor and Council adopted a resolution for an advisory opinion of the Supreme Court on this matter December 5, 1973; and

*Whereas*, the Supreme Court rendered said advisory opinion allowing for the appointment on a temporary basis of a designated person to handle the financial affairs of the Department in a limited manner; and

*Whereas*, said opinion granted said authority "only for a temporary period during the present emergency situation created by the existing conflict between the Governor and Executive Council and the Advisory Commission"; and

*Whereas*, the conflict between the Advisory Commission and the Governor and Council has continued to the present time; and

*Whereas*, until said conflict is resolved, there is no individual serving in the capacity of Commissioner of the Department of Health and Welfare with full power and authority to effectively monitor the expenditure of appropriated funds or administer the affairs or promulgated policy of said department; and

*Whereas*, the Senate has before it substantial appropriation bills which authorize the said Department to expend substantial sums of money; and

*Whereas*, the Senate is of the opinion that unless this conflict or impasse is resolved expeditiously, a most solemn occasion is created in that great harm and damage will be done to citizens of the State and to the said Department; and

*Whereas*, the Senate has before it for consideration SB 25,

An Act providing for the nomination and appointment of the commissioner of health and welfare and directors of divisions of health and welfare by the governor and council; and

*Whereas*, the best interests of the State and its citizens will be served by a commissioner of health and welfare being expeditiously appointed without any further legislation.

*Now Therefore be it Resolved:*

That the Justices of the Supreme Court be respectfully requested to give their opinion upon the following questions:

1. Is the Governor and Council required to appoint to the office of Commissioner of Health and Welfare one of the two nominees nominated by the Advisory Commission for nomination to said office?

2. If the answer to the first question is affirmative, what is the time limit within which the appointment must be made?

*Be It Further Resolved:*

That the President of the Senate transmit seven copies of this Resolution to the Clerk of the Supreme Court for consideration by said court.

Sen. SANBORN: This is a Resolution that goes along with the agreement to bring in SB 25 whereby it would be the vehicle to go to the Supreme Court to get their answers on these two questions. Therefore, I request the permission of the Honorable Senate that the President may be allowed to send the seven copies requesting the answer to these two questions.

Sen. PRESTON: I don't see any printed copies of SB 25.

Sen. SANBORN: It is being printed right at this minute.

Sen. PRESTON: I would like to ask you what the specific purpose of this request is. Is it another attempt — the word was used this morning — to short circuit the legislative process? I am sure we would agree to consider it at an early date.

Sen. SANBORN: If you remember correctly in the President's statement when this bill came before this body, was first brought to the attention of this body, that the bill itself would be given to the Senate, go through the regular process of committee and be given a fair hearing on the Senate floor. So,

the faster we can get it over to the Supreme Court as the vehicle, this I have agreed to.

Sen. PRESTON: I can't say I am adamantly opposed to consideration of this, but I am opposed to consideration of it today. I think it is unfair. I was of the opinion this temporary director had the duties to authorize the expenditures for the department. I am concerned with this bill. I would be willing to consider it and ask for an early committee report on it. But I don't think it is fair that we be asked to act on the Resolution before we have as much as a printed copy of the bill. I think it is a very serious matter.

Sen. NIXON: I speak in favor of the Resolution as offered by Senator Sanborn. By way of clarification of the questions raised by Senator Preston, I would say only this. The bill as offered by Senator Sanborn is already before the Senate. It has been permitted for introduction and has been referred to the Committee on Health, Welfare & State Institutions, if I recall correctly. The reason for the Resolution now before you being presented to the Senate was that the Advisory Commission on Health and Welfare, as well as the Department of Health & Welfare, as well as the Governor and Council have expressed increasing concern about the impasse which now exists in respect to who has what authority and obligations relating to the appointment of a Commissioner of Health & Welfare. There are two ways to resolve such a situation. One is to enact another bill to provide specifically who has such responsibilities, and Senator Sanborn's bill, SB 25, would do that in that it would give the Governor and Council the ultimate authority to do the appointing even though the Advisory Commission might suggest other nominees. The questions which are authored in the present Resolution, if attached to SB 25 and then sent to the Supreme Court, might also help resolve the issue in that a further definition or clarification or interpretation of the existing law without respect to SB 25 would be asked of the Supreme Court for an early answer so that the Senate might consider the whole situation on its merits and in timely fashion during this present Special Session.

Sen. PRESTON: In effect, if the court considers this, is there a need for the senate bill which has been introduced by Senator Sanborn?

Sen. NIXON: It depends on what the Court's answer to

the question is. If the Court answers — and I don't have any idea of what the answer will be — that under existing law the Governor and Council have no obligation to designate one of the two nominees of the Advisory Commission on Health and Welfare to the position then, in that case, it might create a need for legislation of the type offered by Senator Sanborn in SB 25. Because, otherwise, it appears we would continue in a limbo situation with respect to the Commissioner of Health & Welfare. If the Supreme Court, on the other hand, answers, "Yes, the Governor and Council are obliged to appoint one of the two nominees of the Advisory Commission," then it could be argued that SB 25 would not need to be enacted because the impasse is resolved by an interpretation of existing law.

Sen. PRESTON: Would it be appropriate then if the Supreme Court considers this and does not respond before our Session is over, to consider the bill and then go to the courts, or can we go simultaneously?

Sen. NIXON: In answer to your question, Senator, Senator Sanborn kindly consented to the attachment of the questions read by the Clerk and offered by the Advisory Commission on Health & Welfare on condition, and upon my assurance, that I would do all — as would all members of this body do all — to request respectfully of the Supreme Court that a timely decision be rendered. At no time in my memory in New Hampshire has the Supreme Court ever disregarded the Legislature's expressed request of that nature. As a matter of fact, in one case involving the same issue, they came back with a decision a day later. So, I have the fullest confidence that our extremely able and nationally recognized and honored Supreme Court will answer these questions in time so that we may consider them and the bill on their merits at this Session with due deliberation.

Sen. PRESTON: I want to make the point clear that I am not questioning the quality or efficiency of the New Hampshire State Supreme Court. But, as a freshman Senator within this body, I am not aware of various tactics that might be used regarding this bill and approach to the Court and I still am opposed to considering this Resolution at this time without considering the bill on its merits.

Adopted.

#### HOUSE MESSAGE CONCURRENT RESOLUTION

The House of Representatives has passed the following



concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

HCR 1, memorializing Miriam Jackson.

### SUSPENSION OF RULES

Sen. S. Smith moved the Rules of the Senate be so far suspended as to dispense with referral to committee, notice of public hearing, holding of public hearing, notice of report and committee report and that the Clerk read the Resolution in full.

Adopted.

### HOUSE CONCURRENT RESOLUTION 1

Memorializing Miriam Jackson.

*Whereas*, Miriam Jackson faithfully and zealously worked for the growth and well-being of the Portsmouth Rehabilitation Center to foster greater services for the handicapped; and

*Whereas*, Her service continued on behalf of the Easter Seal Society of New Hampshire to benefit all citizens of the state; and

*Whereas*, Miriam Jackson labored long and diligently on behalf of the cause of open space legislation, moving about in her unobtrusive, gently and friendly manner, even as she persisted to achieve the goals she believed would best serve the best interests of her beloved adopted state; and

*Whereas*, Miriam Jackson's captivating smile, friendliness and outgoing personality, gone since her untimely death on July 31, 1973, will be sorely missed by the citizens of New Hampshire; now therefore be it

*Resolved* by the Senate and House of Representatives in General Court convened:

That the Legislature of the State of New Hampshire memorialize the name and memory of Miriam Jackson, that she may long be remembered by our State and its people; and

*Further Be It Resolved*, that a certified copy of this resolution be forwarded by the Secretary of State to Patrick Jackson, husband of the late Miriam Jackson.

Sen. S. Smith moved adoption.

Sen. S. SMITH: I hope that this Resolution will be adopted unanimously and that when the vote is taken, the Senate will take it on a rising vote for a moment of silence in her memory as a person who was highly dedicated to the welfare of this State, particularly of its environment, and the maintaining of the history and traditions of this State.

Sen. PORTER: I wish to associate myself with the remarks made by Senator Smith. We all have had many hours of working with Miriam during past sessions and she will be sorely missed in these legislative halls. I would urge all my fellow colleagues to join in this tribute to Mrs. Jackson.

Sen. LAMONTAGNE: After being here for many years and knowing all the good things that Miriam has done, I would like to be recorded in favor of the remarks made by the Honorable Senator from the 3rd District.

Adopted.

## INTRODUCTION OF HOUSE BILLS

First, second reading and referral

HB 9, increasing the debt limit for the Londonderry school district. Education.

HB 16, permitting public accountants to form a professional association. Executive Departments, Municipal & County Governments.

HB 28, authorizing Franklin Pierce College to grant the degree of juris doctor. Education.

## MOTION TO VACATE

Sen. S. Smith moved the referral of SB 22 to Education be vacated and the bill be referred to Finance.

Sen. GREEN: As co-sponsor of the bill, I would like to rise in support of the Motion.

Adopted.

(Senate President in the Chair)

## ANNOUNCEMENTS

CHAIR: I would like to take this occasion to speak briefly

on a couple of things. One, you have before you a copy of the Fact Finding Comments on Oil Refineries and Offshore Terminals which is the result of the conference held February 13 involving distinguished legislators and officials from the States of Texas, Maine and New Jersey. I commend this report to your careful reading in connection with your continuing study of the refinery situation in New Hampshire. I also would make mention of the fact that you have been invited, along with the members of the House of Representatives, to a presentation by Olympic Refineries, Inc. at the Highway Hotel, which is going on at the present time as I understand it, including the reproduction of the refinery in scale model form.

In my capacity as President of this body, for the time being anyhow, I would like to refer just briefly to some of the events that have transpired in the public press in respect to the Senate the last few days.

For the record, this is being taken down. I was not aware that anything said previously on these subjects was not being taken down in advance. Faced with a budget problem situation and the necessity to curtail our staff situation in respect to the position of Telephone Messenger, which in the past has been ably filled by Mrs. Miner and also, on occasion, by Mrs. Hooper, the decision had to be made between the two as to would be invited to participate in that capacity for the 15 day Special Session. The decision ultimately was mine and it was based primarily on the fact that the husband of one of the ladies has been out of work for an extended period of time; the husband of the other lady is working and, in addition, that same lady has part time work outside the Senate. That is the basic criteria for that decision, as I indicated previously.

It has come to my attention that a letter which I sent out to you on Senate stationery requesting you Republicans — 13 of you — participate in the sustaining membership drive of the Republican Party which was requested by the Chairman of that Party went out through the State House mailing meter as opposed to my office mailing meter or the local post office in New Boston unbeknownst to me. As a matter of fact, the letter was signed for me. This has happened in the past. It was called to the attention of the public and involved the expenditure of something between \$1.20 and \$1.30. At first, I was of the opinion that it was an inconsequential amount com-

pared with some of the expenditures that other officials had made of State funds for political reasons but, upon reconsideration, I felt the principle was bigger than the amount and repaid, by personal check, the State of New Hampshire \$1.30.

I understand there is now another high level investigation going on in respect to the license plates which are possessed and are designated as Senate Chaplain, Senate Sergeant-at-Arms, Senate Clerk, Vice President, Majority Leader of both Parties, Assistant Majority Leader and Assistant Minority Leader. I would like to tell you that those plates were on my initiative, paid for by me on May 4, 1973 by check to the Bovie Printing Process Company here in Concord. They were gifts by me to those designated officials whom I thought, because of their increased responsibilities were entitled to that small recognition. No public funds were involved. The plates are legal in respect to those Senators involved and commemorative gifts as to the others. All of the individuals involved, of course, are required to purchase regular license plates, along with the rest of us and all other citizens of New Hampshire who drive on the highways.

I bring these things to the attention of the Senate only because it is obvious that an effort is being made to discredit somebody, and it does not matter to me who the attempt is to discredit. What matters to me is that the Senate is being discredited by participation in these things. And the worst part of it is that some of it is being initiated, if not assisted in, by members of the Senate. So, I would ask you all, on behalf of the members of the Senate staff who have asked to be here for this statement and for the rest of the Senate and for the purpose of the Senate and the work we have to do for the people of New Hampshire, please use a little discretion, a little judgment, a little common courtesy in respect to these small events which are being ballooned into a major crises, or scandal if you will, as compared with the real problems we are facing, such as the issues we discussed here today. Let's get on with the business of the people of New Hampshire and let these small, picynue, nit picking, crummy little things be things of the past.

I would appreciate any comments or remarks anyone would like to make on any of these subjects.

Sen. SPANOS: I would like very much to add my 10c to your \$1.30. I would like to inform the Body that I feel as badly

about what has transpired in the newspapers, in the *Manchester Union Leader*, as almost anyone, but I can't say that I don't feel personally affronted by what he is doing or what they are attempting to do to a genuine political campaign. I am honest about it. I don't like it. I also don't feel it is fair to each and every one of you who are Senators to be labeled, in any way, or discredited in any way, that makes the political leader of his area any more right and less decent than all of you happen to be. I have served with you and I know that to be true. But every time he knocks me, or every time he knocks the President, he diminishes each and every one of you too because in reality there is so little substance to what emanates from the pen of that man and those who associate with him. He has involved himself in piddling issues and never once come out and complained about some of the more responsible ones of the past and of the future.

I would like to say this and I did tell Mr. Egan the other day when he called me at my home. I said, "Arthur, I don't believe that any stationery that left my office ever came through the Senate postal meter. I pay for my own stationery; I pay for my own letterheads; I process my own letters through my own meter in Newport and I don't believe that, because your date is January 26 or January 25 and, at that time, I happened to be at the Bar Association meeting at the Concord Highway Motel and we never were in the State House on either one of those two days." So I am contemplating the possibility of dirty tricks but, even if I am wrong — even if it did happen — I want the people to know, the public to know, and the Senate to know that, if it happened, it was complete error because it is my policy not to allow it.

On the other hand, I want you to know this too and I am going to tell Mr. Egan again — unless he can produce that letter. that stationery, which indicates a postal meter from Concord, I shall do everything within my power to rectify that wrong by asking for a public apology by the editor of that paper. On the other hand, as I said, if it was a mistake, then I will submit forthwith, with dispatch, with my own postal meter 10c to the State Treasury.

Sen. DOWNING: Mr. President, I was somewhat disturbed today to find in my mail box a communication from a member of the Public Utilities Commission commenting on the

personnel structure in the Senate. I furnished that to the Senate Clerk. If you would use your good office to verify that it did in fact come from a member of the Public Utilities Commission, I would appreciate it if you would inform them that I have no desire to receive this type of garbage and I think they would do better to apply themselves to the responsibilities which they have and stay out of the Senate's business.

Sen. BROWN: When I entered the State House the first day of the Session and came into the Senate Chamber, I had no idea whether Mrs. Miner had been hired or not. People came to me and complained about it, not knowing what the facts were. When we convened, I asked the President the reasons why. He so stated his reasons. The only reason I did this was because of being Chairman of the Research Staffing Facilities of the Senate, I felt Mrs. Miner felt she was treated unjustly and that I would consult with my Committee and give her her "day in court." I had no intention whatsoever of making an issue out of it. Unfortunately, things transpired, things were said that should not have been said and, in my opinion, it was blown way out of proportion.

Sen. FOLEY: I wonder if you could tell me whether the letters that are in question had been opened before the people received them or whether they were received by people and then turned over to the *Union Leader*.

CHAIR: I know the answer to your question, Senator Foley, but, for the good of the Senate, I prefer not to answer it.

Sen. SPANOS: I don't know who got this particular letter. All I know is that when I asked Arthur Egan if he would let me know to whom the letter went, he did not give me that information. I asked him to provide me with a photostatic copy of the stationery itself so that I could ascertain if it was a Concord postal meter. He refused to do so and I am still waiting. Senator Foley, I think the letter was delivered and then given to Arthur Egan in my case.

Sen. Foley moved the Senate do now adjourn from the Early Session and that when the Senate adjourns, it be until tomorrow at 1 o'clock, and that the Senate adjourn in honor of Miriam Jackson.

Adopted.

## LATE SESSION

Sen. Brown moved the Senate adjourn at 2:05 p.m.

Adopted.

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*Wednesday, 27Feb74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

O Lord, Maker and Ruler of all mankind —

On this particular day, Ash Wednesday, we remember Thee more clearly —

The long tedious preparation Thou made for us, so at the end, we would understand and hopefully follow in Your footsteps. Your patience, wisdom and humbleness have lived and survived in the hearts of man throughout centuries and will continue on through all time!

Today we ask as in the past You guide us through this Special Session, so at the last, we in our small way can give of ourselves toward betterment of mankind.

In the name of Him who came to set me free! Amen.

The Pledge of Allegiance was led by Sen. Blaisdell.

## COMMITTEE REPORTS

**SB 16**

expanding the definition of "industrial facility" under the industrial development authority to include postsecondary educational facilities. Refer to Interim Committee of House and Senate Education Committees. Sen. S. Smith for Education.

Sen. S. SMITH: A joint hearing was held on this bill and it was felt very strongly by both Committees, and I think by the sponsors, that this bill should be referred to an interim committee. The Industrial Development Authority was present

and felt they were not capable of handling this situation under their authority. We also talked with the Commission relative to higher education and health facility bonding and it was their suggestion that this bill be greatly amended and that bond counsel be requested to help draft this piece of legislation. We feel it is important, but we feel that if between now and January the bill does not become effective, there is no real bind at the very moment. But we felt it should be done properly. It is a highly technical piece of legislation.

Adopted. Referred to Interim Committee of House and Senate Education Committees.

### **SB 5**

providing that a person cannot be denied unemployment compensation benefits if he refuses a job too distant from his home. Ought to pass with amendment. Sen. Bossie for Judiciary.

### **AMENDMENT**

Amend RSA 282:4, M, (1), (h) as inserted by section 1 of the bill by striking out said subparagraph and inserting in place thereof the following:

(h) The availability of motor fuel for the individual's own automobile and the availability of other forms of transportation, including car pools, to and from his residence.

Amend RSA 282:4, M, (2), (e) as inserted by section 2 of the bill by striking out said subparagraph and inserting in place thereof the following:

(e) If the individual is unable to obtain an amount of motor fuel necessary to travel to and from the position offered in his own automobile, and there is no other form of transportation, including car pools, available to and from such position during the hours which such individual would be required to travel.

Amend RSA 282:4, A, (1), (b) as inserted by section 3 of the bill by striking out said subparagraph and inserting in place thereof the following:

(b) where an employed individual leaves his work voluntarily because he is unable to obtain an amount of motor fuel necessary to travel to and from his employment in his own



automobile, and he is unable to travel to and from such employment by another form of transportation, including car pools, during reasonable hours.

Sen. TROWBRIDGE: This is my bill. It is an energy crisis related bill which I put in to make it clear that the statutes provided adequately for persons who are seeking employment and have been offered a job but the job is too far distant under the present fuel crisis to get to. In the beginning, I was asked to make it mandatory that a person seeking employment could refuse a job if the job were only 5 miles away. I increased that to 15 miles. Then, from testimony of the Commissioner and others, it appeared it would be better to have it in more general language. The amendment offered by the Committee takes out any specific mileage provision and simply says that a person can get unemployment compensation if he "is unable to obtain an amount of motor fuel necessary to travel to and from the position offered in his own automobile, and there is no other form of transportation, including car pools," — and that is something that was put in by the Committee — "available to and from such position during the hours which such individual would be required to travel." All the other provisions relate to the same thing — if he is unable to travel, he will receive compensation.

Amendment adopted.      Ordered to third reading.

## SB 8

relative to the distribution of testate property following waiver of a will by a surviving spouse. Ought to pass with amendment. Sen. Bossie for Judiciary.

## SPECIAL ORDER

Sen. Bossie moved SB 8 be made a Special Order of Business for Wednesday, March 6, at 1:01 p.m.

Adopted.

## SB 10

establishing a sire stakes program and a standardbred breeders and owners development agency. Ought to pass. Sen. Preston for Recreation and Development.

Sen. PRESTON: Before I speak to the bill itself, I think that, although I have been asked to make the report on the

bill, the credit should go to Sen. Green who was the Chairman of the Interim Study Committee, and to Senators Spanos, Downing, Blaisdell and Brown.

This bill would establish a Standardbred Breeders and Owners Development Agency within the Department of Agriculture. The Agency would be run by a five-man board of trustees; four members would be appointed by the Governor and Council and the fifth would be the Commissioner of Agriculture. The agency would develop a sire stakes program to be run at harness race meets, the purpose of which is to develop New Hampshire standardbred horses. The Agency would be funded through one-half of the breakage received from harness races. If I may interpret the word "breakage" for the members — it would be all the odd pennies remaining after payments to holders of the winning tickets are rounded off to the dime. This bill would have the breakage — one-half of which now goes to the track and one-half to the State — the bill would take one-half of the State's share of the breakage, which I understand the figures of last year were an estimated \$360,000 total — \$180,000 of which went to the State — and \$90,000 of which would go to this program.

This bill would make it possible to offer larger purses for New Hampshire bred horses at our harness horse tracks and at agricultural fairs. This will be accomplished by supplementing customary track purses with funds provided by the proposed Standardbred Sire and Stakes Program Agency. Several other states, including New York, New Jersey and Maryland have programs such as suggested in this bill. The superior stallions that have been available for service in those states and their offspring are eligible to compete in the respective states for much larger purses because of being so-called "homebreds." Our New Hampshire track officials have made every effort possible to provide top quality horses for their races. But too often they did not succeed because the sire stakes programs in other states make it more profitable for them to run there. This bill will result in the improvement of harness horses in our state. The results will be higher values for home bred horses because they will be eligible to race for larger purses. Better horses will result in better racing, the latter producing greater interest and attendance at the tracks and, therefore, greater revenues for the State of New Hampshire.

As an example — in 1965 in New York, they had a \$1 million sire stakes program that last year was \$4 million. People will be attracted to buy land and spend money for building a first class operation in the State of New Hampshire. It will attract and help the little man and will maintain more open spaces within our state.

This bill was broadly supported by all present. No one was opposed. Commissioner Townsend was in full support. The Supervisor for Racing for the State of New Hampshire was in support. And I think that in this Session, we have bi-partisan broad base support. There was some misunderstanding at the end of the last Session and this bill was attached to another piece of legislation and, as we all know, failed.

I would strongly recommend support for this bill and, if there are any questions, I am sure members of the Interim Committee might be much better qualified than I to answer them.

Sen. BRADLEY: All these things which this money going into this program will bring about, presumably, it occurs to me might be brought about by other types of expenditures in other areas. For example, we could promote open spaces perhaps by a more direct expenditure of funds. We might invest in other things that might return greater revenue. At least that possibility exists in my mind. Do I take from your remarks it is the judgment of the Committee that this is the best type of investment of this amount of funds which the State of New Hampshire can make to realize the goals which you say will be realized?

Sen. PRESTON: The impression I got from the hearing was that it would attract more horse breeders and increase the number of horse farms in the State. They would not go to other states where the purses were larger. It would also increase the attendance at the race tracks because of the quality of the race horses being provided. And the amount of money being offered in the purses by the various tracks would attract horses from other states and attract more of the professional and amateur bettors to more than repay the State. It was seed money that the State would be offering in its half of the breakage to get this off the ground to what in New York and Ontario quadrupled this return. There was an example in New Jersey where they initially started off, I think they were using a total of 2,000

acres for a horse farm and it is something in the hundreds of thousands of acres today.

Sen. BRADLEY: I will accept for the moment what you say — that this will in the long run produce revenue and maybe have good effects. What I am really inquiring is — is this the best way, or is this better than other things that the State of New Hampshire might do with its money either to meet the needs of people or to attempt to produce revenue? I am sure if we sat down and thought about it, we could think of dozens of investments the State of New Hampshire might make which would produce revenue and, it seems to me, we should not be considering something like this unless there has been some kind of judgment by people who have reviewed it, such as yourself and your Committee, that this is a better way to use the money than something else we might be thinking of.

Sen. PRESTON: I suppose you could come up with several suggestions and maybe substantiate them, but in my opinion, and I think the opinion of the Committee that delved into this — call this a form of economic development, whatever you might, it will provide more jobs, more industry to New Hampshire and essentially attract more racing revenue. As we know, the harness racing at Rockingham Park today has run below the dog racing revenues and it seems to be the feeling that horse racing has provided good revenues to the State of New Hampshire for a long time and, if, in essence, it requires this type of investment — seed money — to enhance it and bring in more revenues, yes, it sounds like a concrete idea to me today and it does sound like a good investment, although there might be others you think of that we might consider.

Sen. FERDINANDO: I think one way to look at it is that the additional revenue the sires program will generate to the State could and will be utilized in funding other programs in the future. But, without the sires program — if you prohibit the sires program, you won't allow the State to generate more income and, as a result, there will be less income later on to fund some of the other necessary programs.

Sen. BLAISDELL: Certainly I rise in support of the Committee report and I am going to be very brief. I believe enough has been said about the sire stakes program and I believe it is needed in the State. But I would like to answer Senator Brad-

ley if I could. Senator, as long as you and I in this Senate or in this State want the people to drink twice as much as they do, go to the race tracks twice as much as they do, and smoke twice as much as they do to educate our children, I think that probably this is what you and I have to do. We have to protect the revenue that we have in this State and between \$7 and \$9 million comes to the State coffers from horse racing and dog racing. I believe this investment is a necessity, until the tax structure in this State is changed, until we change it. Then, maybe my ideas will change. But I think the \$180,000 we would invest in the small people in our State — the horse breeders — and I mean by that the people who have one horse because they are eligible for this program, I think that it is money well spent, and something that they have earned over the years.

Sen. SANBORN: I understood it was \$90,000 and you said \$180,000. Which is it?

Sen. BLAISDELL: The total is \$180,000.

Sen. SANBORN: It comes from the breakage?

Sen. BLAISDELL: The breakage was \$360,000 last year, I believe and \$180,000 would go to the sire stakes program.

Sen. JOHNSON: On Page 4 of the bill, as we come down through Paragraph 2, it said that the Commission shall be uniform at the rate of 19% of each dollar. Is that a change from before or has that always been in it?

Sen. BLAISDELL: No.

Sen. JOHNSON: It was always 19; no change in it?

Sen. BLAISDELL: No change.

Sen. GREEN: I just want to rise publicly in front of the Senate to say that you all have a copy of the Report and it is obvious to us who studied this particular issue that it is a good investment for the State of New Hampshire to make at this point in time. The reason I say that is I think the State had already made up their mind long before this Session of the Legislature that they were going to invest in the horse racing industry, based on the amount of return back to the State. If you take a look at the revenue returns of the horse racing industry over the last several years, there has been some lowering of that revenue. Now the question becomes whether or not the Leg-

islature wants to take some steps to help enhance and encourage that industry to help produce additional revenue or whether or not they want to let the horse racing industry, as such, dwindle and eventually show less and less revenue. As they show less and less revenue, of course, the State's share becomes less and less. So, in terms of the investment, I am not going to make a judgment in terms of what is the best investment for the State of New Hampshire to get the best return. That I am not saying. What I am saying is — the State of New Hampshire long ago made the decision that they were going to support horse racing in this state based on what it was going to mean to the State as well as the horse racing industry. So, with that kind of thinking, it seemed obvious, after we learned the facts about the sire stakes program — what it had done for other states in the country — that this tended to be a reasonable thing for the State of New Hampshire to do if it wanted to protect the present investment in that particular industry.

Sen. PORTER: We had a sire stakes bill kicking around the end of the last Session. Do you recall that bill?

Sen. GREEN: I do.

Sen. PORTER: Is that materially different from the bill we have before us today?

Sen. GREEN: In terms of the sire stakes bill itself, actually no. It is pretty much the same content. Originally, when the bill started, however, if you recall, the way the appropriation was going to be made was out of the General Fund. That was the original request. By the time it got to the Committee of Conference, the Committee of Conference at that point in time had made a decision that the best way to go was the breakage route.

Sen. PORTER: Senator Preston indicated this bill is more like an environmental bill or land use bill in some respects. I was wondering if you concurred in those remarks.

Sen. GREEN: I concur only from the point of view of getting everybody in the Senate to vote for the bill. But, let's be honest about the bill. The bill's intent in terms of open space, etc., those are definitely side effects of the bill. This is not the main intent of the bill; it is not meant to be an open space bill or anything like that. However, if you take a look at some of the data that has been produced in other states —

what has happened is that as sire stakes programs have developed in those states, there has been a greater desire by some investors and some people in the horse racing industry to buy large tracts of land for the purpose of raising horses. But I certainly would not concur in any way that this is the main intent of this bill, no.

Sen. SPANOS: At the last Session what was the figure they were bandying about as to the total cost for the program and what has it boiled down to now?

Sen. GREEN: As I remember, the first request that came in was for money out of the General Fund and the sum was \$250,000 per year. Since that point in time, we went from there to \$25,000 per year and then, when we finally got through with this thing and turned to breakage it came out at \$180,000 for the biennium. So, it is considerably less than the original request by the people interested in this legislation.

Sen. LAMONTAGNE: Do you feel if this bill is passed New Hampshire would have the opportunity of seeing some better horses in the races?

Sen. GREEN: I think that is one of the main intents of the bill — to provide better horses for better horse racing in terms of more betting on the races.

Sen. LAMONTAGNE: Isn't it so that there are some horsemen who have not come to New Hampshire because we have not enacted this law? Are you familiar with that?

Sen. GREEN: I am familiar with the testimony in reference to that. Some people have said that they were not racing their horses in this State because there was not this opportunity. There was also some testimony from people who raise horses in the State who instead of racing their horses in this State were taking them out of state to race them in states where this program was available.

Sen. BRADLEY: I rise in opposition to this measure despite the fact that I put a great deal of reliance on the judgment of my colleagues who have studied this much more than I have. I do think there is a problem here in how we are going about this kind of decision and the assumptions on which this decision is based. Using money for this purpose means that it is not going to get used for something else and I am not quite

ready yet to buy Senator Green's arguments that since we made a policy decision some time in the past that we were going to raise revenue by horse racing and other forms of gambling that we, therefore, should be willing to spend money whenever some idea comes along which looks like it will increase revenue from gambling. It seems to me that the kind of thinking we are all accepting here — and I have no doubt that this bill is going to go through so I am not worried about opposing it — could very well lead to giving prizes to people who smoke more, as Senator Blaisdell has suggested, and to people who drink more and why not have a prize to the grocer who sells the most beer? I just don't buy that as a way to go. Until we have really looked at this whole method of raising money from sins and made the judgment that I don't think anyone has made that this is a better way to spend our money, either for needs or for the purpose of raising other money than something else we could do with our money.

Sen. TROWBRIDGE: I am curious about the statement you made. If I understand sire stakes correctly, these prizes would go to home grown New Hampshire horses.

Sen. GREEN: That is correct.

Sen. TROWBRIDGE: How, then, would that affect the owner of a horse who lives here in New Hampshire from going to out-of-state tracks where you say they take their horse to the out-of-state track to participate in the sire stakes program in New York, which presumably is only for horses which are grown in New York.

Sen. GREEN: That is correct.

Sen. TROWBRIDGE: So, it is not correct that the lack of a sire stakes program here keeps anybody from participating in someone else's sire stakes program?

Sen. GREEN: What I said is essentially true. Let me clarify it so that I can get your concern straightened out. Horses in New Hampshire — people who have horses in New Hampshire — they can take their stallions out of the state, they can have their stallions bred out of state, say in New York, and that horse would be able to race in New York. What I am saying is, the racing industry raises and takes their horses from this State, then proceeds to reproduce the horse in another state so that it



can race in that state, so that the good horses within this State are being taken out. The same horse that is leaving the State does not race in the other state. Does that clarify your point? That is the issue I was trying to make.

I have some of the same concerns that Senator Bradley has expressed and I always have had. However, as Senator Blaisdell has said, until the State of New Hampshire is willing to sit down and say there is need for tax reform and get this thing in a way where taxes are based on an equitable base for raising them and as long as the State of New Hampshire has made the decision that the horse racing, among other kinds of taxes, is going to supplant an equitable tax structure, then I don't see any way you can go but to try to keep and help survive the kind of revenue that we have in this State. Now, I am more open minded and willing to sit down with anybody and any person and at any time — and I am sure many Senators in this Chamber are — to really do something about the tax structure in this State and to put a greater reliance on a person's ability to pay as opposed to relying on such things as horse racing, gambling, cigarette smoking, drinking, etc. But, as long as that exists, until something is concretely established and we can do something about this — and maybe the answer is to let these things die. Let the horse racing industry die. Make the State come around that way. But, you see I also have in the back of my mind that there are a lot of human needs out there and when I say, let this die in order to get what we think is a good tax reform measure, we are going to make a lot of people suffer in the process and I am not willing to do that. At this point in time, that is a real gamble and I am not willing to take that gamble. So, in lieu of that kind of thinking, I don't see that we have much of a choice but to help the things that are bringing revenue into the State to survive. So, until that time, I think we have to rely entirely on our ability to raise revenue for this State for the human needs that are here.

Sen. LAMONTAGNE: I have not always agreed with Senator Green, but this time I happen to be in favor and I certainly support his remarks and I also want to include my good friend from the 10th District, Senator Blaisdell. Personally, I feel this bill ought to pass and I don't see any difference from what the Sweepstakes has been doing. Right now the Sweepstakes are making a lot of changes and they had to make the

changes so that the people would be interested in buying the tickets. The more tickets that are sold, the more New Hampshire gets to help the cost of education. Therefore, I think this is another move in horse racing which I personally feel will be helpful and, at the same time as has been mentioned, there will be better horses coming to the races and, along with these good horses there are always some people who follow these horses and it certainly will increase the take. I feel it is going to be a lot better. At least, we ought to pass this and see if we can make some improvement so that we can increase the revenue coming from the horses.

Sen. Downing moved the previous question.

Adopted.

Report Adopted.      Referred to Finance.

Sen. Bradley recorded in opposition to SB 10; Senators Bossie and Lamontagne recorded in favor of SB 10.

### SUSPENSION OF THE RULES

Sen. Poulsen moved the Rules of the Senate be so far suspended as to permit the introduction of a committee report on SB 7 not previously advertised in the Journal.

Adopted.

### COMMITTEE REPORT

#### SB 7

relative to capital improvements to the Mount Washington summit and making an appropriation therefor. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: This bill is the Mount Washington bill which was introduced last year. This time it is identically the same bill and is sponsored by the Senators from the 1st, 2nd and 3rd Districts, all of whom have some vested interest in the Mountain. It asks that the State bond the Mount Washington Commission for \$2,973,000. The Commission will raise the initial \$1 million themselves. That was agreed upon last year. Last year the bill passed and was vetoed as part of the capital budget, not on its own merits, but as part of the capital budget. There seems to be no difficulty with the bill. Everyone is in

favor of it. The Governor's office apparently wants a time lapse in the spending of the bond, which is agreeable to everyone. We recommend passage at this time so that it can go to Finance and then whatever amendment is necessary can be drawn up there.

Sen. SPANOS: Is this the part of the capital budget that certain members of the Administration indicated was a boondoggle on the public?

Sen. POULSEN: It is possible. I don't remember anyone using those words, but it is possible.

Adopted. Referred to Finance.

### MOTION TO VACATE

Sen. Preston moved the referral of SB 17 to Public Works and Transportation be vacated and the bill be referred to a Joint Committee of Public Works & Transportation and Finance.

Sen. TROWBRIDGE: Since the amendment that came out of Public Works is not available and has not been printed, I thought — and I talked with Senator Jacobson about another bill in this regard — that we could get the bill into Senate Finance so we could have the hearing on it Wednesday instead of having to hold it Thursday and report it Thursday. The motion which was just made by Senator Preston was to have a joint referral of the bill to both Public Works and Finance, which means that my Committee technically can have a hearing on the proposed amendment or the bill in general, including the amendment, next Wednesday and then a joint report can come forth published on Wednesday to be in Thursday's *Journal* so you have everything in front of you when the full amendment comes forth. So this is a technique of buying a little time with our six days coming up.

Adopted.

Sen. Jacobson moved the referral of SB 11 to Executive Departments, Municipal & County Governments be vacated and the bill be referred to a Joint Committee of Executive Departments, Municipal & County Governments and Finance.

Sen. JACOBSON: SB 11 relates to the establishment of an historic commission. We had planned this afternoon to meet

and discuss this bill in Executive Session. However, as Senator Trowbridge has already indicated, this bill also has financing to it and, so that the Finance Committee may be able to act judiciously and legally at the same time, I request that this be adopted by the Senate.

Sen. JOHNSON: Does that mean that we have another hearing, or what happens? The last I knew we were going to talk about it.

Sen. JACOBSON: We are going to talk about it this afternoon.

Sen. JOHNSON: Do we have another hearing?

Sen. JACOBSON: That would be up to the Senate Finance Committee. But that does not necessitate our being there, except probably one member.

Adopted.

Sen. Spanos moved adoption of the following Resolution:

### RESOLUTION

*Know All Men By These Presents That Whereas*, the New Hampshire Senate has learned with extreme sorrow of the passing away of one of its former members, the Honorable Jesse Richard Rowell of Newport; and

*Whereas*, Jesse Rowell throughout his rewarding and fulfilling life of 83 years distinguished himself as a public servant on both the local and state levels, as Selectman, School Board member, and School Auditor in the town of Newport, where he was very active in Republican affairs, and alternately as a State Senator and State Representative, where he served as the first chairman of the newly organized House Finance Committee; and

*Whereas*, in all his endeavors both public and private, Jesse Rowell displayed those exceptional qualities of honesty, dedication, personal sacrifice and understanding for his fellow man, which won him the admiration and affection of those who knew him;

*Be It Further Resolved* that we the members of the New Hampshire Senate extend our deepest sympathies and con-

dolences to Senator Rowell's widow Ida Horner Rowell, herself a former Senator; and be it further

*Resolved*, that a copy of this resolution be recorded in the premanent Senate Journal of 1974.

Adopted.

### PERSONAL PRIVILEGE

Sen. SPANOS: A week ago, Loeb, Finnigan, Egan & Co., in their typical pompous and pseudo-selfrighteousness, sharply criticized Justice John W. King for refusing to respond to their inquiries concerning his role in my appointment and resignation as Special Justice of the Newport District Court.

Under normal circumstances, John W. King, could adequately defend himself against the diatribe of the *Manchester Union Leader* as he did so admirably most of the three terms he served as Governor of this State. But as a member of the Judiciary (because of the code of conduct to which he strongly subscribes), he is most vulnerable to attack — and the *Union Leader* knows it but cares less.

I want to take this opportunity to apologize to Judge King for indirectly involving him in this issue, which has been blown out of proportion by the *Union Leader* with misrepresentations, sly innuendoes, slanted news and yes, even falsehoods. It is quite obvious that Mr. Loeb and his associates have not learned from the Murray Chotiner libel suit which cost the *Union Leader* hundreds of thousands of dollars to settle.

I also want to take this opportunity to defend Judge King because the *Union Leader*, which changes its policy to suit its political purposes, is raising a phoney issue as it relates to Judge King (and myself, I might say, parenthetically).

When Judge King was Governor of the State, it was he who single-handedly fought to secure the passage of legislation which would have prohibited part-time judges from being politically involved. An it was Gov. King, as a member of the New Hampshire Bar Association, who worked hard to have judicial canons adopted by the Bar and the Courts. His efforts were opposed by many part-time judges (including several political allies of Mr. Loeb) and by the *Union Leader* itself. I even opposed Gov. King on this issue, maintaining that the political process would

be minimized if the input of these part-time judges was shut off.

Time has tested the two philosophies and the adoption of the Canons prevailed.

Now that the *Union's* friends are retired or deceased, with a "holier-than-Thou" attitude, it does a complete reversal and supports the very principle of government which Gov. King fought so long to establish.

Instead of criticizing Judge King, the *Union Leader* should have extolled his high principles and public dedication — not only for pioneering the idea in this State but for living the part by refusing to get involved in a "political" contest with Loeb, Finnegan, Egan & Co.

Sen. Foley moved the Senate do now adjourn from the Early Session, that the business of the Late Session be in order at the present time, and that on third reading, all bills be read by title only, and that when the Senate adjourns, it be until next Wednesday at 1 o'clock and in honor of the birthday of the Clerk of the Senate, Wilmont White.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

SB 5, providing that a person cannot be denied unemployment compensation benefits if he refuses a job too distant from his home.

Adopted.

Sen. Sanborn moved the Senate adjourn at 2:05 p.m.

Adopted.

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### *Wednesday, 6Mar74*

The Senate met at 1 o'clock.

The Senate Vice President presiding.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Dear Lord, may we, in this Senate Body, begin our days with quiet intercessions to remind us that all good things derive from You! Make us concious always, of Thy humility, that we may temper our own judgements, and achieve, our goals by using the wisdom with which Thou endowed us. In Thy Name.  
Amen.

The Pledge of Allegiance was led by Senator Blaisdell.

## INTRODUCTION OF SENATE BILLS

### First and second reading and referral

SB 28, to establish standards of care and treatment of alcoholics, intoxicated persons and drug dependent people. (Gardner, Dist. 4; Rep. Knight, Goffstown, Dist. 8 — To Public Health, Welfare & State Institutions)

SB 29, exempting enterprises selling spirits and wines to the state of New Hampshire from the business profits tax. (Smith of Dist. 15; Downing of Dist. 22 — To Ways and Means)

## HOUSE MESSAGE

## INTRODUCTION OF HOUSE BILLS

### First and second reading and referral

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states and permitting broader cooperation in furnishing of municipal services. Public Works & Transportation.

HB 19, increasing the amount of political expenditures authorized for candidates in primary and general elections seeking the office of governor, U. S. senator, representative in congress, governor's councilor, county officer, state senator or representative to the general court. Executive Departments, Municipal and County Governments.

HB 20, increasing the interest rate of housing authority bonds. Public Works & Transportation.

HB 21, relative to the duties of the state board of education and prohibiting the expenditure of public moneys in non-public schools unless said schools have program approval by the department of education. Education.

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election and electing constitutional convention delegates from old wards. Executive Departments, Municipal & County Governments.

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill. Judiciary.

### SUSPENSION OF THE RULES

Sen. Green moved the Rules of the Senate be so far suspended as to dispense with referral of HB 23 to committee and that it be placed on Second Reading.

Sen. GREEN: HB 23 is a bill that relates to the City of Somersworth. Basically, it allows the City of Somersworth to have the existing officials now in office based on the old ward lines which we changed during the regular session of the General Court. These present officials would remain in office until their term of office expires. What happened is interesting at this point in time. The election yesterday in the City of Somersworth was based on the registration from the old ward lists. I was in hopes this bill would get to us last week so that this would be done prior to this happening. This hopefully legalizes that action yesterday, if we allow this to go through. And I would like to get it through here as soon as possible. Actually it is just to make legal everything that was done yesterday in the special election for the Constitutional Convention and to allow the present officials who are in office to remain in office.

Adopted.

### Second Reading

HB 23, continuing present city of Somersworth's elected officials in offices until the next regular election and electing constitutional convention delegates from old wards.

Sen. JOHNSON: Seeing this is after the fact, would it be more appropriate to legalize the election? I am very much in sympathy with what Senator Green has said and I feel something should be done, but I am just curious as to whether this is the right course.

### LAIID ON THE TABLE

Sen. Green moved HB 23 be laid on the table.

Adopted.



## COMMITTEE REPORTS

**HB 9**

increasing the debt limit for the Londonderry school district. Ought to pass. Sen. S. Smith for Education.

Sen. S. SMITH: This is a bill similar to many we have had before relative to increasing the bonding authority of the school district. This applies to the town of Londonderry which has a problem because of the fact they are experiencing and projecting an 11% to 13% growth rate in the number of children in their school in the next few years. Their children in high-school — 9 through 12 — presently go to Manchester and Pinkerton and they are planning by 1978 to have all of their children — 1 through 12 — in their own school system. This is a matter of great concern and of urgency for the town of Londonderry — to increase the present of bonding based on their assessed evaluation.

Adopted.      Ordered to third reading.

**HB 28**

authorizing Franklin Pierce College to grant the degree of juris doctor. Ought to pass. Sen. S. Smith for Education.

Sen. S. SMITH: This bill came before the Senate last year. It was placed in a study committee by the House Education Committee. It has been reviewed and the House and Senate Education Committees both have voted to approve the bill. The Post Secondary Education Commission recommends that the law institute connected with Franklin Pierce College be granted the degree granting powers through June 30, 1977. The Post Secondary Education Commission appointed a committee of Visitation which was chaired by Mr. Richard Upton. Members of the Committee included Mr. Arthur Niswander, Peter Shapiro and Attorney William Beckett. They recommended that the accreditation be granted for a specified time. The American Bar Association has made their visitation and examination and has granted approval for degree granting powers through June 30, 1974. It was the belief of both Committees that this was a reasonable date and it is hoped the Senate will go along with the recommendation of the Committee.

Sen. JACOBSON: I notice that the degree to be granted is Juris Doctor or it is sometimes called Doctor of Jurispru-

dence. Now, usually that is an advance degree and the normal degree that is granted by a law school is an LL.B., I believe. Why is there the difference?

Sen. S. SMITH: I am not sure in this particular case, but many law schools are changing the title of their degree to Juris Doctor. As a matter of fact, I have known several lawyers from other schools who have paid the \$15.00 to buy the J.D. degree to which they were entitled because of a change in laws in many states.

Sen. JACOBSON: With respect to this, it will be a probationary and supervisory situation? Is that correct?

Sen. S. SMITH: This is correct, until 1977. At that time, it would mean that the Legislature and the Secondary Education Commission would have to take further action to either grant it for a temporary or a permanent period.

Sen. BOSSIE: Is it our understanding this law school has its first class at this time and actually it will not grant its first degree of Juris Doctor for two years?

Sen. S. SMITH: This is correct. To elaborate on that for a moment — it is believed by all involved — the Secondary Education Commission, both Education Committees — the statute required some guarantee to the students and it is essential at this time that the degree granting power be authorized.

Sen. BOSSIE: You stated previously that the American Bar Association did a survey of some sort. Would you elaborate on this — in what detail.

Sen. S. SMITH: I do not have the report with me but I understand they have given approval and that the Post Secondary Education Commission has relied on this to some degree, plus their own committee made up of some rather prominent lawyers here in the State of New Hampshire, as I mentioned earlier.

Sen. BOSSIE: Normally in order for a college or a special law school to be accredited they have to have an approved library. Do you know if this school does have an approved library or is it the Supreme Court Library they will be using?

Sen. S. SMITH: Testimony was given to the effect that the former law librarian for the Supreme Court Law Library is

now an employee of the College, or of the law center, and that they have procured a large percentage — the figure of 90% from the testimony comes to my mind as to the minimal requirements for a library.

Sen. BRADLEY: You mentioned the Secondary Education Commission.

Sen. S. SMITH: Post Secondary Education Commission.

Sen. BRADLEY: There is a Commission which is charged with evaluating educational institutions who want the right to grant degrees which I thought had a different name.

Sen. S. SMITH: This is the one.

Sen. JACOBSON: The name was changed in the last session of the Legislature.

Sen. BRADLEY: Is this the Commission that has Mr. Arthur Jensen on it?

Sen. S. SMITH: Right?

Sen. BRADLEY: Do I understand you correctly that that Commission has now approved this bill and given its blessing to having degree granting powers?

Sen. S. SMITH: This is correct.

Sen. TROWBRIDGE: I would like to speak in favor of the Committee Report. Franklin Pierce College is in my District and I am quite proud this institution is going forward to bring what I think is the first law school to New Hampshire. In this day and age of many students wanting to get into some aspect of legal study, I think we have to provide them and have to provide them here at home and I think it is a really wonderful occasion for us to be able to say, here is a college which is, by its own bootstraps, pulling itself up and being able to grant degrees in law. I commend the Committee and urge support of the Report.

Sen. R. SMITH: In what District is the law school?

Sen. TROWBRIDGE: District 11.

Sen. BLAISDELL: As the Senator from District 10, neighboring Senate District 11, I would like to voice my strong sup-

port for this bill, and would like to urge your passage of this piece of legislation.

Adopted.      Ordered to Third Reading.

### **SB 3**

changing the compensation of certain state law enforcement employees. Ought to pass with amendment. Sen. S. Smith for Finance.

### **AMENDMENT**

Amend the title of the bill by striking out the same and inserting in place thereof the following:

#### **An Act**

changing the compensation of certain state law enforcement employees and fees of witnesses.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Law Enforcement Compensation. Amend RSA 99:2, c., (supp) , as amended, by striking out said paragraph and inserting in place thereof the following:

c. The standard workweek for law enforcement employees shall be a basic forty-hour week. To the annual salary of such employees shall be added compensation equivalent to eight hours per week or four hundred sixteen hours per year. Law enforcement employees, for the purpose of this section, shall include liquor investigators, safety inspectors, motor vehicle investigators, probation officers, and all law enforcement employees of the department of resources and economic development, including, district fire chiefs and forest fire prevention and training officers, and forest and park enforcement officers within the bureau of off highway recreational vehicles.

2 Payments from Salary Adjustment Fund. For the bien-nium ending June 30, 1975 funds necessary for the implementation of section 1 of this act shall be a charge against the salary adjustment fund.

3 Fees of Witnesses. Amend RSA 516:16 by striking out said section and inserting in place thereof the following:

516:16 Attendance; Travel. The fees of witnesses shall be

fifteen dollars for each day's attendance before a municipal, district, superior, or probate court or legally constituted auditors, referees, magistrates or officials having the power to summon witnesses, except as otherwise specially provided, for each mile's travel to and from the place of testifying, mileage shall be paid at the same rate as that allowed state employees as provided in RSA 99-A:1; mileage to be allowed for each day's attendance where the witness is required to leave the town or city in which he resides to testify.

4 Witness Fees for Law Enforcement Officers. Amend RSA 592-A:13 (supp) as inserted by 1957, 244:8, as amended, by striking out said section and inserting in place thereof the following:

592-A:13 No Witness Fee to Salaried Officers. No sheriff, deputy sheriff, constable, city marshal, chief of police or other police officer who receives a salary or who is to be otherwise compensated as a law enforcement officer in connection with the same criminal case by the state, county, city or town, shall be paid any fee for testifying as a witness in a criminal case; except that any police officer who is on vacation, furlough or on time off who attends as a witness in a criminal case pending in any municipal or superior court shall, upon order of the court, be paid a witness fee in accordance with RSA 592-A:12 for each day of such attendance. Provided, however, towns and cities may pay supplemental witness fees if deemed desirable.

5 Effective Date. This act shall take effect sixty days after passage.

Sen. S. SMITH: SB 3 again is a familiar bill. This passed the Senate and the House last time and is back again. What the bill does — the original bill — is to bring liquor inspectors, motor vehicle inspectors and other law enforcement officers into the same overtime pay as presently being received by state police and conservation officers. These men are working many hours overtime and it was felt they should be compensated for it. There is an amendment which was offered and endorsed by the Governor's Commission relative to courts which changes the law which was passed in the last Session relative to witness fees. What this amendment does in effect is to put everybody who is a witness upon the same basis and not give preferential treatment to any one group, particularly to law enforcement

officers, as was the case. I think there was a question of constitutionality about it and there is also a great deal of concern presently as to the fees being paid to all witnesses. Under existing law, a witness in a court will be subpoenaed, brought in and paid \$5.00 a day, plus 6c a mile. 6c per mile does not go very far in this day and age, and neither does \$5.00. So, what the amendment does is to raise all witness fees to \$15.00 per day and mileage to 10c a mile. I might add when this was printed in the *Calendar*, or somewhere along the line in the Senatorial bureaucracy, there was a slight error made and, if this amendment is adopted, I will then offer a second amendment which simply adds the word "district" in the last paragraph of the bill so that it would read "municipal, district or superior court" rather than just "municipal or superior."

Sen. BRADLEY: It was my understanding that at some point in the recent past it would have been possible to have four or five groups being required to come to a court house on a day, all receiving different mileage payments: the judge receiving one level, jurors another level, witnesses receiving another, sheriffs receiving a fourth, and maybe there was a fifth. Does this bill do anything about equalizing that situation?

Sen. S. SMITH: What it does is to equalize for witnesses. It does not take into consideration judges or juries. That is under a different law. But it makes all type of witnesses come before the court on an equal basis.

Sen. SANBORN: I speak in favor. One of the groups that are covered here are district fire chiefs, fire wardens, etc. I was at a meeting of the wardens the other night and they feel very strongly for this bill. As you know, we are just getting into what is known as the forest fire season. For instance, a week ago Saturday, 81 acres was burned over in the town of Stratham. These wardens put in extremely long hours and it is very arduous work. I hope that the Senate will look favorably on this bill.

Amendment Adopted.

Sen. S. Smith moved adoption of the following amendment.

#### AMENDMENT

Amend RSA 592-A:13 as inserted by section 4 of the bill

by striking out said section and inserting in place thereof the following:

592-A:13 No Witness Fee to Salaried Officers. No sheriff, deputy sheriff, constable, city marshal, chief of police or other police officer who receives a salary or who is to be otherwise compensated as a law enforcement officer in connection with the same criminal case by the state, county, city or town, shall be paid any fee for testifying as a witness in a criminal case; except that any police officer who is on vacation, furlough or on time off who attends as a witness in a criminal case pending in any municipal, district or superior court shall, upon order of the court, be paid a witness fee in accordance with RSA 592-A:12 for each day of such attendance. Provided, however, towns and cities may pay supplemental witness fees if deemed desirable.

Sen. S. SMITH: I would like to offer this second amendment which I mentioned earlier which adds the word "district." I think it would be fair and equitable for district court witnesses to have the same privileges as those in municipal and superior court.

Sen. PRESTON: Is this a cost to be borne by the local district courts?

Sen. S. SMITH: It all depends on what kind of a witness you are, I guess. That does not mean whether you are a good or bad witness. It means who you are being called by. I would think that most of these would be paid by the county.

Sen. PRESTON: I am thinking of the Hampton District Court. What financial impact would this have on a local court such as that?

Sen. S. SMITH: A lot of these are paid by the litigant. I cannot tell you what proportion. Under the present system, with police officers there has been some inequitable use of this system whereby under present law if you are there in the morning you are paid based on your salary and, if you are there after noon until 2 o'clock, then you get a full day's pay. I think in effect this would about even out the situation from what I can gather, so far as costs are concerned.

Sen. JOHNSON: I thought I heard you say that the witness fees shall be the same to all people whether they be civilians or police officers.

Sen. S. SMITH: That is correct. That is what this bill would do.

Sen. JOHNSON: It does away with the day's pay bit?

Sen. S. SMITH: It also says in the bill, "provided, however, towns and cities may pay supplemental witness fees, if deemed desirable." So this leaves it open to the towns if they so desire.

Amendment Adopted.      Ordered to Third Reading.

### SPECIAL ORDER

Sen. Jacobson moved SB 18 be made a Special Order of Business for Thursday, March 7, at 1:01 p.m.

Sen. TROWBRIDGE: This is an enormous piece of legislation. Last Friday and early this week I had the Legislative Budget Assistant, Bob Flanders and myself put together a new amendment which is on Page 36 through Page 56 of today's Calendar. The reason I had it printed today was so that we would not be dealing with this enormous piece of legislation on the last day before bills could pass.

We have a rather large policy decision to be made here in this session. The cost-of-living retirement problem we tackled last time in SB 100, which was vetoed. SB 18, however, this Session is a great deal more comprehensive than old SB 100. It establishes a catch-up provision. I just want you to read the bill and you will see by reading it it is almost impossible to interpret, but every part of the state retirement system is supposed to be covered. No one is left out. Interestingly enough, as we went through our analysis, we found that the State Employees Association and the lobbying groups that came in had left out the State Police and the State employees themselves in their own calculation on SB 18. It is that complicated that you can lose a whole group without knowing it. So, tomorrow I will be back on the Floor to really explain the bill in detail.

We are having some resistance on the House side. I want you to know that. The House Appropriations Committee is saying, I believe, that there is going to be no cost-of-living allowance to State employees; that we can wait until 1975. So we are headed for a fairly good pull and haul here if the Senate agrees with the Senate Finance Committee that we should do this. I am just bringing it to your attention so that you can look



through it and, if you have any questions on what is going on and I could explain them in advance, I would be happy to.

Adopted.

### SB 15

transferring permanent state prison employees from group I of the New Hampshire retirement system to group II or from the state employees' retirement system to group II, and making an appropriation therefor; and relative to retirement credit for William Grass, Jr. Ought to pass with amendment. Sen. R. Smith for Finance.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

### AN ACT

transferring permanent state prison employees from group I of the New Hampshire Retirement System to group II or from the State Employees' Retirement System to group II, and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Group II Members. Amend RSA 100-A:1, X, (b) (supp), as inserted by 1967, 134:1, by striking out in lines one and two the words "and permanent firemen" and inserting in place thereof the following (permanent firemen, and permanent state prison employees.) so that said subparagraph as amended shall read as follows:

(b) "Group II members" shall mean permanent policemen, permanent firemen, and permanent state prison employees.

2 Transfer of State Prison Employees. Amend RSA 100-A by inserting after section 36 the following new section:

100-A:37 State Prison Employees Transferred to Group II. Every permanent employee of the state prison who is a group I member of the New Hampshire retirement system, or a member of the State Employees' Retirement System, shall retroactively to July 1, 1973 become a member of group II of the New Hampshire Retirement System, other provisions of law notwithstanding.

ing. From July 1, 1973, those permanent employees including retirants and transferees since July 1, 1973, designated in this section shall thereafter become eligible for such benefits as are provided for group II members under this chapter, including credit for all prior service allowable, as if they had become group II members from the inception of the New Hampshire Retirement System. The board of trustees shall make all necessary changes in its records to accomplish the foregoing transfers.

3 Appropriations. There is hereby appropriated from funds of the state not otherwise appropriated the sum of seventy-six thousand, five hundred sixty-six dollars to the New Hampshire system for fiscal year 1974 and a like amount for fiscal year 1975 to meet the increased annual contribution due to the transfers provided in RSA 100-A:37, as inserted by section 1 of this act, and to meet the increase in the unfunded accrued liability due to said transfer for the fiscal years ending June 30, 1974 and June 30, 1975. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect upon its passage.

Sen. R. SMITH: SB 15 originally came into the Senate in the late hours of the last regular session. It was assigned to Senator Jacobson's Committee for interim study and I want to thank Senator Jacobson for his early consideration of the bill and for helping to keep it alive.

What it does quite simply is transfer the employees of the State Prison from Group I retirement to Group II or from State Employees' Retirement System into the Police Retirement System. Some of you probably are aware of the problems we have had at the prison — the recruitment and retention of correctional officers becomes more difficult each month. There have been four slashings in the last year, I believe, and the turnover rate has been very high — over 50%. It has become in recent years, a more complex job and it has become a more dangerous job. This bill is one part of a method to upgrade the position of correctional officer and, hopefully, the Senate will go along with it.

Sen. TROWBRIDGE: Just for the record — in the moving from the State Employees' Retirement System into the Police Retirement System, there is a questionmark that we should

know about. The federal government and the retirement system there and social security say you do not have to pay social security on a police officer. Hence, in Group II Retirement System, the employees put in a lot more in contribution because they do not have to pay social security. Their retirement benefits are higher and come sooner than State employee benefits. However, a person has to be deemed a police officer under the federal social security standards. There is some question as to whether the correctional officers in the Prison will qualify for police officers in terms of the federal social security standards. If they do not qualify, then the prison employee, the correctional officer, would have to pay both social security and higher retirement. This has been brought out to the prison officials; it has been brought out to the employee representatives of the correction officers; they know there is this risk. But I just thought it might be well worth it to get it on the Floor of the Senate that this risk is known as we pass this bill and that the employees are willing to take the risk that they might have to be paying perhaps up to 14% of their salary if they are hit both ways. Of course they would have enormous benefits but they might not be able to afford it. They know about it; we know about it and I just thought it worth mentioning.

Sen. JOHNSON: The time we had the hearings on that bill, we started off with a list of employees and it never quite got resolved as to who should be on that list and who should not. Who is covered?

Sen. R. SMITH: I think the resolution was in covering all employees. It was too difficult to become exclusive. The answer is it covers all of them.

Sen. JOHNSON: How about the secretaries?

Sen. R. SMITH: It will cover them.

Sen. JOHNSON: All?

Sen. R. SMITH: As far as I know all of them who are employed at the Prison — that are locked up as the prisoners are locked up.

Amendment Adopted.      Ordered to Third Reading.

SJR 1

compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists and com-

pensating Florence Pouliot for injuries suffered at the State House on June 13, 1973. Ought to pass with amendment. Sen. R. Smith for Finance.

### AMENDMENT

Amend the title of the Resolution by striking out same and inserting in place thereof the following:

### JOINT RESOLUTION

compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists.

Amend the bill by striking out all after the resolving clause and inserting in place thereof the following:

That the sum of twenty-seven dollars is hereby appropriated to Rene Boucher. Said appropriation is for the purpose of compensating Mr. Boucher for mileage while a member of the Committee on Voter Registration and Checklists on November 9, 1971, January 11, 1972 and October 18, 1972.

Sen. R. SMITH: With apologies to Senator Green who had agreed to be a co-sponsor of the bill. Somehow or other through a mix up in Legislative Services, I ended up on it with Rep. Pryor.

The sum of \$27.00 goes to Mr. Rene Boucher of Somersworth who was involved in an interim committee to study checklists and voter registration. For some unexplained reason, Mr. Boucher was never paid his mileage for the meetings at which he was in attendance. There was an appropriation in the bill for mileage which had lapsed. This was the only way of compensating Mr. Boucher for his mileage; hence the \$27.00 claim.

There was also attached to the bill a claim on behalf of Rep. Pryor, I think for a constituent in Berlin who had suffered a fall, as it was explained, on the State House steps. Mrs. Pouliot appeared by herself. There was no one to represent her in the way an attorney would represent a client and her Representative was not there either. The Committee had no way of determining, on the basis of the presentation that was made, just exactly what Mrs. Pouliot's claim might be. I think it is for this reason we amended the bill to strike out reference to

this. If, in the House, sufficient evidence is given to prove Mrs. Pouliot's claim, I think we would probably entertain it.

Sen. BRADLEY: Isn't there an easier way to pay someone \$27.00 than to have a separate bill introduced?

Sen. R. SMITH: This could have been a \$27,000 appropriation. As it was in its original form, it was supposed to be an omnibus claims bill and it is unfortunate that there was only one claim for a small amount of money. I don't know if there is another way. I certainly wish there was another way for small claims against the State. I hate to sit as a member of the Senate Finance Committee as judge, jury and God on some of the things we have to listen to pertaining to contaminated wells, falls out front and a multitude of other things.

Amendment adopted.      Ordered to third reading.

#### SB 4

relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

### AMENDMENT

Amend RSA 149-E:7, I and II as inserted by section I of the bill by striking out said paragraphs and inserting in place thereof the following:

I. Any person who shall violate any of the provisions of this chapter or who shall fail, neglect or refuse to obey any order of the commission or member or authorized agent of the commission issued under the authority of this chapter, or who shall make any misstatement of material fact for which said person is personally responsible in connection with an application for an approval pursuant to this chapter shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. Any person who wilfully produces any erroneous or fallacious data with regard to any sewage or waste disposal system plan submitted shall bear the full responsibility for same. and shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

Sen. PORTER: SB 4 was introduced by Senator Smith and as introduced, is the same bill that was vetoed last year. The amendment was offered by the Attorney General's office and brings some of the language relative to the criminal aspects of the changes in the penalties in accordance with the new codification of the laws. The bill simply deals with the problem of sewage treatment facility design and installation. Throughout many parts of the State, the home owners suddenly found themselves liable for poor installation or an incorrect engineering design. The bill strives to put the blame where it belongs and also to insure that people will be more responsive and will obey the rules and regulations established by the Water Supply and Pollution Control Commission. It was brought out in the testimony that the State needs to license designers and installers within the State. The limited time and agenda of the Special Session certainly does not allow that extensive a piece of legislation at this time. The Water Supply and Pollution Control Commission indicated, in response to a question from Senator Brown, that with the adoption of this new law where a little harsher penalties are brought to bear relative to wilfully submitting incorrect designs that each designer and installer in the State will be so notified of these laws. We changed the language slightly to conform with the new codification and we urge the adoption of the bill.

Amendment Adopted.      Ordered to Third Reading.

### SPECIAL ORDER

#### SB 8

relative to the distribution of testate property following waiver of a will by surviving spouse. Ought to pass with amendment. Sen. Bradley for Judiciary.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to the distribution of testate property following waiver of a will by surviving spouse and relative to the form of notice given for termination of parental rights.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Testate Distribution Upon Waiver of Will by Surviving Spouse. Amend RSA 560:10 (supp), as amended, by striking out said section and inserting in place thereof the following:

560:10 Distribution When Surviving Spouse Waives Testate Distribution. Upon the death of either husband or wife, testate, and the surviving spouse has elected to waive the homestead right, if any, and the provisions of the will in his or her favor, if any, and has elected to claim his or her rights hereunder, such surviving spouse shall be vested with the following portion of the estate remaining after the payment of debts and expenses of administration:

I. If there are children of the deceased surviving (whether by the surviving spouse or by previous marriage) or issue of any deceased children, one-third part of the personalty and one-third part of the real estate.

II. If the decedent leaves no children or issue of any deceased children, but does leave mother or father or sister or brother surviving, ten thousand dollars in value thereof of personalty and ten thousand dollars in value of real estate, and also one-half of the remainder above ten thousand dollars in each, the real estate to be assigned to the surviving spouse in the same manner as dower heretofore has been assigned. Where the inventory value of the real estate does not exceed ten thousand dollars, the surviving spouse shall be entitled to the whole of said remainder and no assignment of the same shall be required unless some party in interest shall petition to the probate court therefor.

III. If the decedent leaves no children or issue of any deceased children, nor mother or father, nor sister or brother surviving, ten thousand dollars of the value thereof, plus two thousand dollars for each full year from the date of marriage to decease of spouse, and also one-half in value of the remainder above said sum computed as above, in the personalty, and the same in the real estate, the real estate to be assigned in the same manner as dower has heretofore been assigned. Where the inventory value of the real estate does not exceed ten thousand dollars, the surviving spouse shall be entitled to the whole of said remainder and no assignment of the same shall be re-

quired unless some party in interest shall petition the probate court therefor.

2 Abatement of Remaining Property When Surviving Spouse Waives Testate Distribution. Amend RSA 560 by inserting after section 10 the following new section:

560:10-a Abatement Upon Waiver of Will by Surviving Spouse. Upon waiver by the surviving spouse of the homestead right and the provisions of the will in his or her favor and election by the surviving spouse to claim his or her rights under RSA 560:10.

I. The surviving spouse shall take nothing under the will.

II. The part of the estate not passing to the surviving spouse under RSA 560:10 shall pass in accordance with the terms of the will.

III. Devises and legacies shall abate in the following order without any preference or priority as between real and personal property:

- (a) Property not disposed of by the will;
- (b) Residuary devises and legacies;
- (c) General devises and legacies;
- (d) Specific devises and legacies.

IV. For purposes of abatement in paragraph III, a general devise or legacy charged on any specific property or fund is a specific devise or legacy to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise or legacy to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

V. If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise or legacy would be defeated by the order of abatement stated in paragraph III, the shares of the distributees abate as may be found necessary to give effect to the intention of the testator. If the subject of a preferred devise or legacy is sold



or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

3 Intestate Distribution. Amend RSA 561:1 (supp), as amended, by striking out said section and inserting in place thereof the following:

561:1 Distribution Upon Intestacy. The real estate and personal estate of every person deceased, not devised or bequeathed, subject to any homestead right, and liable to be sold by license from the court of probate in cases provided by law, and personalty remaining in the hands of the administrator on settlement of his account, shall descend or be distributed by decree of the probate court:

I. If the deceased is survived by a spouse, the spouse shall receive:

(a) If there is no surviving issue or parent of the decedent, the entire intestate estate;

(b) If there is no surviving issue but the decedent is survived by a parent or parents, the first fifty thousand dollars, plus one-half of the balance of the intestate estate;

(c) If there are surviving issue all of whom are issue of the surviving spouse also, the first fifty thousand dollars, plus one-half of the balance of the intestate estate;

(d) If there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

II. The part of the intestate estate not passing to the surviving spouse under paragraph I, or the entire intestate estate if there is no surviving spouse, passes as follows:

(a) To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

(b) If there is no surviving issue, to his parent or parents equally;

(c) If there is no surviving issue or parent, to the brothers and sisters and the issue of each deceased brother or sister by representation; if there is no surviving brother or sister, the

issue of brothers and sisters take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree then those of more remote degree take by representation;

(d) If there is no surviving issue, parent or issue of a parent but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation; and the other half passes to the maternal relatives in the same manner; but if there be no surviving grandparent or issue of grandparent on either the paternal or the maternal side, the entire estate passes to the relatives on the other side in the same manner as the half.

4 Notice for Termination of Parental Rights. Amend RSA 170-C:7 (supp), as inserted by 1973, 523:1, by striking out said section and inserting in place thereof the following:

170-C:7 Notice. After a petition has been filed, the court shall set the time and place for a hearing, and shall cause notice thereof to be given to the petitioner, the parents of the child, the guardian of the person of the child, the person having legal custody of the child, any individual standing in loco parentis to the child, and the guardian ad litem of any party. Where the child's parent is a minor, notice shall also be given to said minor's parents or guardian of the person unless the court is satisfied, in the exercise of its discretion, that such notice is not in the best interest of said minor and that it would serve no useful purpose. Notice shall be given by personal service to the parent whose parental rights may be terminated pursuant to the petition that has been filed. Where it shall appear impractical to personally serve said parent, the court shall order service by certified mail to the parent's last known address or publication once a week for two successive weeks in a newspaper of general circulation in the area where that person was last domiciled or both. All other parties shall be given notice by regular mail at their last known address. The hearing shall take place no sooner than twenty days after service of notice, except that if notice is by publication the hearing shall take place no sooner than seven days after the last date of publication.

5 Effective Date.

I. Sections 1 through 3 of this act shall take effect at midnight of the day of its passage and shall apply to the estates of persons deceased after midnight of such day; provided, however, that estates in which a surviving spouse has waived the will in his favor and which are subject to the provisions of 1973, 293 in effect prior to such effective date may elect to be subject to the provisions of this act upon filing the written consent of all interested parties to the estate with the probate court within sixty days of the filing of the waiver or release of the will and homestead right as provided in RSA 560:14.

II. Section 4 of this act shall take effect upon its passage.

Sen. BRADLEY: As you will recall, there was a bill in the regular session on the House side which was supposed to change the amount of property which a widow or widower would get when the first spouse died in the event of no will. Inadvertently, the bill fouled up the situation where there was a will in a way which was not intended.

All the main part of this bill is doing is putting the law, in a situation where there is a will, back where it was before. The net effect of the House bill which passed and this bill when it passes will be that in the future, where there is no will, in most cases, the surviving spouse will get the first \$50,000 of the estate and one-half of the remainder. Where there is a will, the surviving spouse in most cases, will get, or can claim, one-third of the estate.

In addition to the will and intestates situation, we have also added a small minor amendment to cure a problem in the termination of parental rights by law, which was simply to cure an unintended result where people were required to pay a sheriff to serve papers on themselves, which is rather a silly thing to require.

In a way, you can say the bill is really housekeeping. The reason for the Special Order was there were some inappropriate numbers in the bill which have now been corrected.

Amendment adopted.      Ordered to Third Reading.

#### COMMUNICATIONS

David L. Nixon, Senate President  
Concord, New Hampshire 03301

Dear Mr. President  
and Members of the Honorable Senate,

On behalf of her family, her many friends throughout the state, and the organizations for which she worked so devotedly, I want to express our deep appreciation and respect for the memorial resolution honoring Miriam Jackson.

Among her many interests, there was nothing Miriam believed more important than our democratic legislative system. She was particularly mindful of New Hampshire's unique process, whereby every bill must have a public hearing and be brought to the floor for consideration.

All of us who knew and loved Miriam take great pride in this thoughtful action of the Senate.

We were particularly touched at the wording of the resolution. It faithfully portrayed the philosophy which enabled Miriam to have good relationships with representatives of every viewpoint, party & faction. For she truly believed that people are more important than issues.

With respect and appreciation,

Patrick Jackson

## NEW HAMPSHIRE SUPREME COURT OPINION

Jame E. O'Neil, Sr.  
David L. Nixon  
Ernest R. Coutermarsh  
Eileen Foley  
Harry Spanos  
Kimon S. Zachos

v.

Meldrim Thomson, Jr., as Governor

February 28, 1974

*McLane, Graf, Greene & Brown* and *Richard S. Snierson* (Mr. Stanley M. Brown orally) for James E. O'Neil, Sr. and others as members of the New Hampshire General Court and individually.

*Cleveland, Waters & Bass* and *Robert T. Clark* (Mr. Clark

orally) for State Employees' Association of New Hampshire, Inc.

*Charles G. Douglas III*, legal counsel to the Governor, by brief and orally, for Meldrim Thomson, Jr.

*Stanton E. Tefft*, by brief and orally, for intervenors T. Anne Webster, Rudolph Nelson, Annie Mae Schwaner, Nelson Pryor, George Gordon, Donald Gorman and William E. Sanborn, being seven members of the House of Representatives in opposition to the petition.

LAMPRON, J. Petition for a declaratory judgment and other relief brought against Meldrim Thomson, Jr., as Governor, by certain members of the General Court in their capacity as President and Vice President of the Senate and as Speaker and Deputy Speaker of the House and as minority leaders of the Senate and the House and as individual taxpayers. Also a plaintiff is the New Hampshire State Employees' Association, Inc., a voluntary corporation, in its own right and on behalf of its members and of all classified employees for whom it is the bargaining agent. The plaintiffs seek a declaration that certain Executive Orders promulgated by the Governor are "illegal, unconstitutional and void". Seven members of the house of representatives intervened in opposition to the action.

The Trial Court (*Keller, C.J.*) found that: "No useful purpose would appear to be served by evidentiary hearings in this Court, since the basic issues are of constitutional law and of statutory interpretation, and all parties indicate that a final determination by the Supreme Court is desirable." All questions of law raised by the pleadings of the parties were reserved and transferred to this court without rulings by the trial court.

The challenged Executive Orders are as follows:

(1) No. 73-14 promulgated on July 10, 1973 which in pertinent part provided: ". . . [I]t is hereby ordered and promulgated that effective this date no new permanent or new temporary classified personnel shall be hired without the prior approval of the Governor or his designee. Such approval will be given only when the need is clear-cut and failure to employ the additional personnel will clearly decrease our ability to

meet the needs of the people of our State. This freeze shall be effective until September 10, 1973, unless sooner terminated by the Governor. All requested positions shall be certified to the Governor by the appropriate department head.

“Existing temporary employees who would have normally converted to permanent status under legislative enactment in the 1973 session of the General Court will be allowed to be extended only to September 10, 1973, out of funds appropriated for their employment unless otherwise authorized by the Governor or his designee.”

The first part of the above order pertaining to new permanent and new temporary classified personnel was extended to April 1, 1974, by successive Executive Orders. The second part relating to the conversion of existing temporary employees to permanent status was revoked by Executive Order 73-28 (December 21, 1973) which provided that such employees were authorized to be converted to permanent status effective retroactively to July 1, 1973.

(2) No. 73-15 issued July 16, 1973 which provided that because of the energy crisis and the need to operate the State government as economically and as efficiently as possible a “ban was ordered . . . on the purchase of all automobiles for State use until September 17th 1973. . . . Exceptions to the ban may be made by the Governor upon written request from an agency head stating the reason why an exception should be made.” On December 21, 1973, (Executive Order 73-29) this order was amended to provide: “No State department or agency shall purchase a new motor vehicle without the approval of the Governor’s Inter-Office Motor Vehicle Committee,” a committee composed of certain department heads and a representative of the Executive office. The order was to remain in effect until terminated by the Governor.

(3) No. 73-16 issued August 14, 1973 read in part as follows: “. . . [I]t is hereby ordered and promulgated that effective this date no transfers or promotions of State employees having a labor grade of 17 or higher shall be made between any department, agency, board, or commission without the prior approval of the Governor . . . All requested transfers or promotions shall be certified to the Governor pursuant to this execu-

tive order by the appropriate department, agency or commission head." All of the above orders were issued by the Governor "by virtue of the authority vested in me under New Hampshire Constitution, Part 2, Article 41 as the supreme executive magistrate of the State."

The plaintiffs in their several capacities have sufficient right and interest in the "performance by public officers of their public duties" and in "the preservation of an orderly and lawful government" to entitle them to maintain these proceedings. *N. H. &c. Beverage Ass'n v. Commission* 100 N. H.. 5, 6, 116 A.2d 885, 886 (1955). Their petition for declaratory judgment is a particularly appropriate action when the parties desire and the public need requires a speedy determination of the important issues in controversy. *Chronicle &c. Pub. Co. v. Attorney General*, 94 N. H. 148, 150, 48 A.2d 478, 479 (1946); *Austin v. State Tax Comm'n*, 114 N. H. (decided this day).

Their solution involves an interpretation of our State constitution and of statutes relative to the executive and legislative branches of our government. This is a traditional function conferred on the judiciary for which it is responsible. It is not within the competence of the other two branches and consequently does not fall within the bar against confiding political questions to the courts. N.H. CONST. pt. I, art. 37, pt. II, art. 72-a *Cloutier v. State Milk Control Board*, 92 N.H. 199, 201-02, 28 A.2d 554, 556 (1942); see *Powell v. McCormack*, 395 U.S. 486, 23 L. Ed. 2d 481, 89 S. Ct. 1944 (1969). Nor does this petition violate the doctrine of sovereign immunity as it is not an action against the State but rather a proceeding to prevent the Governor from enforcing Executive orders which are claimed to be beyond his powers to promulgate. *Conway v. Water Resources Board*, 89 N.H. 346, 348, 199 A. 83, 86 (1938); see *Fortin v. Morton*, 101 N.H. 477, 147 A.2d 644 (1958).

Even though part of Executive Order No. 73-14 has been revoked we hold that the petition should not be dismissed for mootness as we believe justice requires that the matters in issue be decided so that all officials concerned "may know where they stand." *Sugar Hill Improvement Ass'n v. Lisbon*, 104 N.H. 40, 42, 178 A.2d 512, 513-14 (1962). The defense of laches does not prevent the maintaining of this petition as it deals with appropriations separate and distinct from those in

effect when inaction on the part of the plaintiffs is alleged. No prejudicial delay appears in regard to the present appropriations and Executive Orders pertaining thereto.

The legislature exercises one of the three "essential powers" of our government. N.H. CONST. pt. I, art. 37. The General Court composed of the senate and the house of representatives is invested with the "supreme legislative power" within this State. N.H. CONST. pt. II, art. 2. It has the power to make laws; to name all civil officers (with exceptions not material in this case) and to define their duties and powers; to assess taxes to raise revenue for the operation of the government of the State and to make appropriations for that purpose. *Id.* arts. 5, 18. No moneys are to be issued out of the treasury of the State unless "there be an appropriation, or equivalent direction for payment, by the Legislature." *State v. Kimball*, 96 N.H. 377, 380, 77 A.2d 115, 119 (1950); RSA 6:10 (Supp. 1973).

Under these powers the General Court has created State departments and assigned broad powers and duties to the heads of these executive departments. *E.g.*, RSA ch. 8; RSA ch. 8-B; RSA ch. 8-C; RSA ch. 12; RSA ch. 106-A; RSA ch. 126-A. The General Court has also established a "Unified Personnel System For The State" which provides for the recruitment, appointment, compensation, promotion, transfer, layoff, removal, and discipline of State employees. R. L. ch. 27-B. This system has been expanded and revised to meet changing conditions. RSA chs. 98, 98-A, 98-B, 98-C, 98-D, 99 (Supp. 1973). RSA 98:1 provides as follows: "Neither the governor nor council shall be required to approve the employment, or salary, of any employee within the state classified service, except as such approval may be specifically required by law."

The legislature has established the procedure to be followed in establishing budgets and making appropriations for all State departments. RSA ch. 9. Unlike any previous budget, those for fiscal years 1974 and 1975 with which we are concerned in these proceedings were prepared in a "program appropriation unit format" (PAU) as required by RSA 9:8-a (Supp. 1973). This method requires the submission by the departments of new information such as "program descriptions of activities, workload, output, and improved financial data." Budget Manual, Fiscal Years 1974-1975, p. 1. The department ad-



ministrators must submit to the Governor and to the legislative appropriations committees PAU forms showing how they intend to spend the funds requested whether for existing programs, their expansion, new programs, additional personnel, new automobiles, supplies, travel and other specified items. In the case of a request for new positions, the PAU form must show why they are needed, what they will accomplish, when the hirings will take place, and the classification and salary of the employees.

This new approach called for legislative judgments regarding the scope and value of individual budget requests. The records of the legislative committee hearings both in the house and then in the senate reveal searching inquiries into the details of the spending items sought by the various departments. The appropriations committees were thus in a position to make a legislative determination whether or not a program should be inaugurated, continued, expanded, or discontinued, or a contrary judgment. Appropriations for the programs and their cost in personnel, equipment, travel and other expenses, some of which were later the subject of the Executive Orders in question, were incorporated in House bill 888. This bill was considered by the body of the house and adopted, sent to the senate and amended, sent to a conference committee of the two bodies, adopted by both, and approved by the Governor as Laws 1973, ch. 376.

The role of the General Court in regard to these appropriations is not then at an end. RSA 9:13-27 (Supp. 1973) provide means by which the expenditure of these appropriations can be monitored by that body through designated agencies and officers. The appropriations are to be made available for expenditure by each department on July 1, 1973. §10. "No State official, commissioner, trustee, or other person having control of public funds appropriated by the general court shall use any part of such funds for any other purpose than that for which they were appropriated, or expend any money . . . in excess of the amount voted by the legislature." §19. A fiscal committee of the legislature and the office of legislative budget assistant have been established to supervise fiscal matters during the legislative session and the interim between sessions. RSA 14:30, 30-a. They can conduct post-audits of department accounts and un-

dertake research and investigation and make analyses in regard to financial matters. RSA 14:31. It is clear from the foregoing that the power of the General Court to make appropriations for State departments and to monitor their expenditure is an established legislative function under the constitution and statutes.

Prior to its amendment in 1966, article 41 of the State constitution which relates to executive powers of the Governor reads as follows: "There shall be a supreme executive magistrate who shall be styled the Governor of the State of New Hampshire, and whose title shall be His Excellency." The 1966 amendment added in pertinent part the following: "The executive power of the state is vested in the governor. The governor shall be responsible for the faithful execution of the laws. He may, by appropriate court action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty, or right, by any officer, department or agency of the state."

This amendment was proposed and adopted for submission to the voters by a constitutional convention held in 1964. The journal recording those proceedings is illuminating on whether it was intended to endow the Governor with the power and duty to interpose himself in the expenditure of the legislative appropriations by the departments of the State. As originally proposed to the convention the amendment would have contained the following sentence: "Each principal executive department shall be under the supervision of the Governor." A motion to strike out this sentence was made and in the debate which followed the sponsor of the motion argued that if the sentence stayed in "the Governor will have the power to tell us [department heads] who to hire and who to fire. You cannot run a department on that basis." N.H.J. of Const. Conv. 289 (1964). Another delegate stated "it was not the intent of the Committee in any way whatsoever to give the governor authority to set policy or to interfere in any way with those commissioners who are properly doing their job." *Id.* at 290. The amendment proposed was approved, the sentence in question was stricken and the amended resolution was approved by the convention and later adopted by the voters in its present

form. *Id.* at 292. This legislative history leads to the conclusion that the Executive Orders in question were not authorized by article 41, part II of our constitution as they have the effect which the framers of the amendment expressly rejected. The language of pt. II, art. 41 as amended states clearly when and how the Governor can exercise the powers it granted and there is no claim that the Executive Orders were occasioned by any failure in "the faithful execution of the laws".

Insofar as these Executive Orders purport to prevent the expenditure of appropriations made for the hiring of new personnel or the purchase of automobiles they would have the effect of a line item veto. A resolution proposing a constitutional amendment authorizing the Governor "to strike out or reduce items in an appropriation" while approving others failed to be adopted by the convention. N.H.J. Const. Conv. 105 (1964). If such power were to be given to the Governor his veto could be overruled by the legislature in the usual manner. If constitutionally authorized these Executive Orders would have a more drastic effect than a line item veto because there is no established means by which the legislature could nullify them.

Prior to 1957, R.L. 23:10 and 11 provided that appropriations should not be available for expenditure by any department until quarterly allotments had been approved by the Governor. The General Court, however, removed this power from the Governor in 1957 (Laws 1957, 112:1) and made the appropriations available on July 1, to be expended over the fiscal year as the department heads deemed necessary for the proper operation of their departments. RSA 9:10.

The legislature has authorized the intervention of the Governor in the process of the expenditure of appropriations by the State departments in limited specific instances. RSA 9:11 provides that if a monthly report of the director of the division of accounts indicates that a department is spending at a rate which will deplete its appropriation before the end of the fiscal year a report is to be made to the Governor who may after investigation order the department head to reduce expenditures. It is not sought to sustain these Executive Orders under this provision. RSA 9:12 which gives the Governor the authority to investigate the management of State funds by depart-

ments and "within the scope of the powers possessed by him" to order action to bring about increased economy and efficiency cannot be interpreted to confer additional powers beyond those already possessed under other grants of authority.

RSA 9:13-c provides that if the director of accounts should determine that during three consecutive months there has occurred such a decline in State revenues as would, if continued, cause a serious deficit in the total budget, he is to report this fact to the Governor. "On receipt of such report the governor may, with the advice and consent of the advisory budget control committee, order reductions in rates of expenditures within all or any departments of state government, so that such decline in revenue will not result in the incurrence of further state debt." There is no claim of reliance on this authority.

We find no constitutional or statutory authority granted to the Governor to support the Executive Orders in question since they contravene the legislative intent expressed by the appropriations made by Laws 1973, ch. 376 for the hiring of new personnel and the purchase of automobiles. We hold them invalid. Insofar as the Executive Orders relate to the classified personnel of the State they contravene the powers of the legislature granted by the constitution and exercised by enactments in chapters 98, 98-A, 98-B, 98-C, 98-D and 99 of the Revised Statutes Annotated. We hold that the Executive Orders relating thereto are beyond the powers of the Governor and are invalid.

Although plaintiffs' petition seeks an order enjoining the Governor from enforcing these Executive Orders, we do not recommend or issue such an injunction. See *Tirrell v. Johnston*, 86 N.H. 530, 532, 171 A. 641, 642 (1934).

*Petition for declaratory judgment granted.*

All concurred.

The N. H. Supreme Court in the foregoing opinion stated that "Although plaintiffs' petition seeks an order from the Governor from enforcing these orders, we do not recommend issuing such ruling," see *Tirrell v. Johnston*, 86 N.H. 530, 532, 171 A. 641, 642, 1934.

The language referred to in the N. H. Supreme Court's

Opinion referring to the case of *Tirrell v. Johnston* is as follows:

"... (T) here will be no occasion for the issuance of an injunction in any event. When the law is settled, it will be obeyed. It is, therefore, immaterial whether the proper proceeding is an application for a Restraining Order or a Petition for Declaratory Judgement. A final interpretation of the law in either form of proceeding would be binding upon these parties."

### PERSONAL PRIVILEGE

SEN. LAMONTAGNE: Mr. President and Members of the Senate: I have received a letter from the American Automobile Association, known as the AAA, and I assume that each and every one of you Senators have received this letter dated February 27, 1974. Along with this letter to me, as Laurier, from my good friend, Dwight Conant of AAA, was a little note saying "Would you file this Fat Truck Bill for AAA?" This little note really amused me, and if AAA would like to have me put in their bill, I would be very glad to be their sponsor, although I don't feel that it's necessary to have a referendum, as they have requested. Increasing the weights, and at the same time widening the 96 inch truck law so that all trucks in New Hampshire would have 102 inches, I am for it. Now the bill that AAA has asked me to introduce for them I would like to quote:

#### A BILL RELATIVE TO TRUCK SIZES AND WEIGHTS REFERENDUM

There shall be submitted to the vote of the people at the fall election in November, 1974 the following questions:

1. "Truck Lengths. Shall truck lengths be increased from 55 feet to 65 feet to permit a single tractor to haul two trailers?"

2. "Truck Widths. Not including vehicles on the Interstate Highway which may not exceed a maximum width of 96 inches, shall the legal truck widths for other roads and highways in New Hampshire be increased from 96 inches to 102 inches?"

3. "Truck Weights. Not including Interstate Highway under federal control, shall there be a 10 per cent increase in the legal gross weight of trucks equipped with five axles with a minimum distance between extreme axles of forty feet?"

Now, Senators, I would like to go to Section 1, of the proposed bill from AAA, trucks be increased in length from 55 feet to 65 feet to prevent a single tractor from hauling two trailers. Personally, I don't see any need in changing the lengths of trucks, but at the present time I would definitely be in opposition to having a single tractor hauling two trailers. I would favor allowing the trucking industry to add another axle on either 10 wheelers or trailers. Now, I've seen 10 wheeler trucks, with trailer equipment, with two axles, hauling logs and the trailer had just as much weight as the truck itself. This, I would say, was unsafe. When you follow such equipment, as I have described, and you see the load wobbling back and forth on the single pole with a heavy load, it really scares the motorists, and therefore I oppose such equipment.

Section 2. Truck Widths. I believe that the truck widths should be for all trucks, and not leave it to one industry. Believe me, I am not criticizing what the General Court has given to the forest products in the last session of the General Court, giving 90,000 pounds for 5 axle and, at the same time, allowing the emergency rib bars for those who are hauling forest products. The present law has been very confusing to the enforcing officer, because the law today allows 102 inches if you load your pulp sideways on the truck, if you have low pressure tires, and if you haul forest products with truck bodies with rib rails, and all other trucks are 96 inches. I invite anyone to come to the North Country and see these trucks I have mentioned with widths 102 inches, we have no problems. And, for what we have on the books today, I certainly want to thank Governor Thomson, Jr. I also want to thank Commissioner of Safety, Richard Flynn. I want to thank Gerald Connolly from AAA for his support to widths, and Robert Whitaker, Commissioner of Public Works and Highways. Also, Frederick Clarke, Jr., Director of Motor Vehicles, who has just taken over my title, along with Governor Thomson. The title that was given to me by AAA in the beginning of the session, "Senator Laurier Lamontagne and Fat Trucks." I am really hurt to have lost my title. Why AAA even had a picture of SB 264 with a great big pig in the front of the trailer, instead of a truck. Of course, they were referring to big trucks with widths exceeding 96 inches, and of course, the weight bill of 5% tolerance, which I was accused of slipping through the last session.

And, of course, I wish to be fair, Gerald Connolly from

AAA did oppose the increase in weights, but supported us in the widths for forest products, because the Brown Company could have closed their doors if the widths for the forest products hadn't been passed by the last General Court. It was, indeed, a hardship that the Company was facing at that time. And, without Mr. Connolly of AAA, Governor Thomson, Commissioner Flynn, Director Clarke, and others, and if that bill had not been enacted into law for the forest products to include the two side rails on widths of trucks, the motorist would have been facing dangerous loads of wood traveling on the highway. Like it used to be years ago, wood scattered all over the road. Now, if the 102 inches for many of the trucks I have mentioned is working so well, then I believe that 102 inches should be passed for all trucks. When AAA can say that the trucks are not equipped to carry these loads, then I think it is time the trucking industry starts demonstrating the good of the widths and weights.

Section 3 of the proposed bill by AAA, who wants a referendum asking the people if they favor a 10% increase in weights. Again, I would repeat, a referendum is not necessary. We have been sent here to represent our people, and some of us have experience in this field. I with all the experience I have had, agree to increase the weights for all 5 axles, and the 90,000 pounds we have for the wood industry should be left alone because my people are satisfied. If 90,000 pounds can operate well in the North Country, I am sure that other sections of the state, which have better roads and better bridges should be entitled to the same weight as we have up north. One thing my people up north did not receive, was an increase in weights for 10 wheelers, who are kept to the limit of 55,000 pounds. Therefore, I would like the 10 wheelers, depending on the size of the truck, due to the braking for safety, would like to see a 10% increase in weights. I am talking about these hard workers who are hauling wood, gravel, salt and other types of cargo. Now I would like to see that law be made fair and equal to all types of trucking. That is 102 inches for width and weights to be increased 10% as is being proposed by AAA. As far as to the increase in length, I do not know of any trucker asking to haul two trailers. If someone has requested this, I, who've been a supporter of the trucking industry in making laws for the last 20 years, am not aware of such a request.

AAA has sent out letters to all Senators and other people that the trucks are getting bigger and are a danger on the highway. In the letter, and I assume it is a news release, it so states that trucks are having more accidents than cars operating on the highway. I challenge the AAA to produce to us the figures of accidents that have occurred by any type of trucks in this state of New Hampshire, and would like to have them compare the amount of cars that have had accidents. By looking at the records, the proportion of truck accidents are fewer than if you look up the accident reports of cars. You will find the comments made in the Newsletter of February 27 are completely wrong, because the records will show that the accidents caused by cars are greater. Now, if AAA would only stop fighting against the trucks, stop spending their funds foolishly, stop fights against the bread and butter, and stop and think that today there are less cars on the highways. The traffic has decreased because of the shortage of fuel. I would urge the AAA to think, and spend their funds to help the members of the association by trying to get more fuel and, at the same time, fight to get the increase in the cost of fuel down, so that their membership and others can get around our state to enjoy recreation as they did in the past. But right now, with the shortage of fuel and the high price of gasoline going up every day, their membership and our people are facing a hard time. The AAA should protect the trucking industry instead of fighting against them, because without the trucking industry and the railroads, there would be a lot of people out of jobs.

In closing, I would like to thank Governor Thomson, Commissioner of Safety Flynn, and Fred Clarke, Jr. Thank God we have a man like Fred Clarke, who is Director of the Motor Vehicle Division. This man has a lot of experience. I have worked closely with him for many years. I would like to pause at this point so you can get the full impact of this question — "Was this letter, sent to us and others, to hurt Fred Clarke's reappointment as Director of Motor Vehicle?"

Is this another gimmick like the rumor that Rep. Malcolm Stevenson and I heard that the Commissioner of Safety was in opposition to the reappointment of Fred Clarke. Well, let me tell you that these rumors I have found out from the Commissioner are false. Commissioner Flynn showed me a letter of recommendation in favor of the reappointment of Fred Clarke, Jr., and there are many of us Legislators, I know, who are in fa-



vor of the reappointment. I only hope that our Governor will accept the recommendation made by the Commissioner of Safety and that the Governor and Council reappoint this man for his qualifications, experience and is well respected by the employees of his Department, who've been asking me "Is my boss going to be reappointed?"

Members of the Senate, I would like to thank you very much for your time.

Sen. FOLEY: I move the Senate do now adjourn from the Early Session, that the business of the Late Session be in order at the present time, and that on third reading all bills and resolutions be read by title only, and that when the Senate adjourns, it be until tomorrow at 1 o'clock and in honor of Senator Laurier Lamontagne's birthday and in honor of the Goffstown Redskins State Basketball Champions in Class I, who defeated the wonderful teams of St. Thomas Aquinas High School, Kennett High School of Conway, Somersworth High School and finally Hanover High School in order to achieve this championship. We would like to congratulate Coach Leon Konieczny and players Walter Foote, Jay Rising, Marvin Kennedy, Ed Coulombe and Brooks Bailey and Junie Blaisdell, who refereed the final game.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

SB 3, changing the compensation of certain state law enforcement employees and fees of witnesses.

SB 4, relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission.

SB 8, relative to the distribution of testate property following waiver of a will by surviving spouse and relative to the form of notice given for termination of parental rights.

SB 15, transferring permanent state prison employees from group I of the New Hampshire retirement system to group II or from the state employees' retirement system to group II, and making an appropriation therefor.

SJR 1, compensating Rene Boucher for mileage while

serving on the Committee of Voter Registration and Checklists.

HB 9, increasing the debt limit for the Londonderry school district.

HB 28, authorizing Franklin Pierce College to grant the degree of juris doctor.

Adopted.

Sen. Jacobson moved the Senate adjourn at 2:50 p.m.

Adopted.

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### *Thursday, 7Mar74*

The Senate met at 1 o'clock.

The Senate Vice President presiding.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Oh Thou who condescends to help all in their daily lives, come to this Chamber today!

And if we should forsake Thy nearness, overcome by our own burdens of duty this day, remind us sternly that You are ever near. Give us Thy special help that we may go forward — slowly but surely helping to right the wrongs and by so doing strengthen our future years! !

In our Redeemer's Name, we pray this day, O Lord, that You will visit and relieve the infirmity of Thy servant, Thomas Claveau, and restore him to health. Amen.

The Pledge of Allegiance was led by Charles Douglas, III.

## HOUSE MESSAGE

### INTRODUCTION OF HOUSE BILLS

First and second reading and referral

HB 12, conforming tax commission references in the current use taxation law to the revised revenue administration laws. Ways & Means.

HB 13, repealing the termination date of RSA 357-B. Public Works & Transportation.

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975. Executive Departments, Municipal & County Governments.

HB 25, changing the reporting date for the study commission on the problems of unemployed citizens in New Hampshire. Ways & Means.

HB 27, relative to amending certain provisions of the Off Highway Recreational Vehicle Law, RSA 269-C. Recreation & Development.

HB 29, relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions. Education.

## ENROLLED BILLS REPORT

HB 9, increasing the debt limit for the Londonderry school district.

HB 28, authorizing Franklin Pierce College to grant the degree of juris doctor.

Senator Paul Provost  
*For the Committee*

Adopted.

## HOUSE MESSAGE

The Speaker has referred HCR 4, relative to the joint rules, to the Joint Rules Committee.

House Concurrent Resolution No. 4

Be it Resolved by the House of Representatives, the Senate

concurring, that a new rule be added to the Joint Rules of this session, to wit:

32 Neither house shall adjourn for longer than five days without the consent of the other.

Referred to Joint Rules Committee.

### SUSPENSION OF THE RULES

Sen. Lamontagne moved the Rules of the Senate be so far suspended as to allow the introduction of Senate Concurrent Resolution 1 and Senate Concurrent Resolution 2, dispense with printing and hearing and that the matter be taken up at the present time.

Adopted.

### SENATE CONCURRENT RESOLUTION NO. 1

referring the question of the reclassification of a certain highway in the town of Clarksville to a joint legislative committee.

*Whereas*, the question as to the classification of a certain highway in the town of Clarksville has not been fully determined; and

*Whereas*, this highway, known as West Road and consisting of a 1.73 mile segment between U. S. Route 3 and N. H. Route 145, may be either a class II or class V highway; and

*Whereas*, the issue should be fairly decided for the town of Clarksville; now therefore be it

*Resolved* by the Senate and House of Representatives in General Court convened:

That the question of proper classification of the said 1.73 mile segment of West Road in the town of Clarksville is hereby referred to the public works committees of the Senate and House for determination and investigation; and

That said committees acting jointly shall report their findings and recommendations, together with the draft of any legislation proposed by them, to the General Court no later than December 31, 1974.

Sen. LAMONTAGNE: This is in reference to a question of reclassification of a certain highway in the town of Clarksville and will be sent to a Joint Committee on Public Works. The reason for the request at this time is so that this Committee will be able to report by December 31, 1974, which will be before the next session in 1975. It is hoped to get passage of the bill so that it would be approved before the Town Meeting in March of 1975 so that the town will know whether to appropriate further funds to continue this highway.

## SENATE CONCURRENT RESOLUTION NO. 2

Referring the question of compensation for the town of Gorham to a joint legislative committee.

*Whereas*, the town of Gorham is of the opinion that it is entitled to the sum of eleven thousand seven hundred sixty-five dollars from the New Hampshire Department of Public Works and Highways because of costs to it for trenching and back filling of existing water pipes, necessitated by the reconstruction of Route 16 and U. S. 2 in said town, from the Department of Public Works and Highways in accordance with the provisions of RSA 229; and

*Whereas*, the Department of Public Works and Highways does not concur in this opinion but under the provisions of said statute feels that the town of Gorham has been reimbursed by the State for all costs for which the State is liable; and

*Whereas*, the determination of this problem requires extensive investigation relative to the same;

*Now Therefore Be It Resolved* by the Senate and House of Representatives in General Court convened:

That the question of whether the State should make any further payment to the town of Gorham water department, under the provisions of RSA 229, for costs resulting from the reconstruction of Route 16 and U. S. 2 in said town, is hereby referred jointly to the public works committees of the Senate and House for determination and investigation; and

That said committees acting jointly shall report their findings and recommendations together with the draft of any legislation proposed by them to the General Court no later than the last Wednesday of December, 1974.

Sen. LAMONTAGNE: This is for the town of Gorham, New Hampshire and refers to the question of the town being reimbursed by the Public Works Department. Four years ago, I introduced a bill which passed the General Court where they would dig a trench and then the town would lay down their pipe and the State would bury the pipe. The town of Gorham went ahead while the new highway was being built between Berlin and Gorham and put in a brand new pipe and the Public Works Department somehow feels that the law was passed four years ago does not allow reimbursement to the town of Gorham because of the additional pipe they put in. This has been done by the town because the town thought that they were saving time and funds for the State of New Hampshire because it means the new highway will not be dug up again since they already have their sleeves put in. This will be referred to the Joint Public Works Committee so that Committee can make a report in December so that an early bill can be introduced and either passed or defeated so that at least the town of Gorham will know whether or not to appropriate money. Right now they have used up some of their funds. This would be a question in March of 1975 if they have to appropriate money to make up the money that has been spent already.

### PARLIAMENTARY INQUIRY

Sen. BOSSIE: I notice in the Calendar for this afternoon there are approximately 20 bills that we will be taking up. Out of that number, 9 are with amendments. In the Calendar, we have 5 amendments. Where are the other 4 and, if any of the Committee Chairmen have them, could we read them before the bills come up so that we can have a chance to look at them.

CHAIR: The Clerk informs me that there are some amendments that are here with the Clerk which will be distributed, some already have been distributed and, if at any time, you find you do not have enough time to read the amendment, you can always call for a Recess.

### TAKEN FROM THE TABLE

Sen. Green moved HB 23 be taken from the table.

Adopted.

## Second Reading

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election and electing constitutional convention delegates from old wards.

Sen. Green moved adoption of the following amendment.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

continuing present city of Somersworth's elected officials in office until the next regular election, and legalizing the election of delegates to the constitutional convention from the old wards of said city.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2. Legalizing Election of Delegates to the Constitutional Convention From the Old Wards. Notwithstanding the provisions of the laws of 1973, chapter 572, establishing new ward lines in the city of Somersworth, the election of delegates to the constitutional convention from the city of Somersworth on March 5, 1974 is hereby legalized, ratified and confirmed so far as one delegate was chosen from each of the wards existing prior to the laws of 1973, chapter 572, utilizing the checklists of the pre-existing wards and the election officials of said wards.

Sen. GREEN: HB 23, as you will recall from yesterday, is the bill which refers to the City of Somersworth and the election they had on the 5th of this month. The bill, as was stated before, should have come prior to the election in order to allow Somersworth to vote using the old ward line checklists. When we got the bill in here yesterday, it was after the fact. So actually this amendment would legalize the election after the fact. I ask your approval of this amendment.

Amendment adopted.      Ordered to third reading.

## COMMITTEE REPORTS

## SB 9

legalizing a special town meeting of the town of Wilmot.

Ought to pass with amendment. Sen. Jacobson for Executive Departments.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

### AN ACT

legalizing special town meetings in Wilmot and Pittsfield;  
and the Seabrook School District meeting.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Town of Wilmot. All acts, votes and proceedings of the special town meeting held in the town of Wilmot on October 4, 1973 are hereby legalized, ratified and confirmed.

2 Town of Pittsfield. All acts, votes and proceedings of the special town meeting held in the town of Pittsfield on August 30, 1973 are hereby legalized, ratified and confirmed.

3 Seabrook School District. All acts, votes and proceedings of the meeting of the Seabrook School District held March 5, 1974, including but not limited to the votes for election of officers and the vote to adopt the provisions for absentee ballots for the election of school district officers, are hereby legalized, ratified and confirmed.

4 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: The original bill provides for a legalization in the town of Wilmot and, as you will see in the amendment, the town of Pittsfield and the Seabrook School District have been added. I would suspect that once it gets over to the House, we will also have others that will be added to it.

In the town of Wilmot and the town of Pittsfield, the failures in following the legal procedure are technical and of a small nature such as failure to post the notice of the meeting within the 14 days; they did it in 12 days.

The Seabrook School District is a little more complicated. In that instance, the School Board failed to post the announcement for the election of school officers within the legal time. Furthermore, the School Board did authorize the absentee



ballot provisions but failed to put it in the warrant. On motion from the floor, this article was accepted and acted upon. Therefore, they are asking that their School District Meeting be legalized with respect to these two defects.

Amendment Adopted. Ordered to Third Reading.

## **SB 22**

Providing a limited tuition assistance for New Hampshire high school graduates who wish to attend accredited institutions of higher learning within the state; and making an appropriation therefor. Ought to pass with amendment. Sen. Foley for Finance.

### **AMENDMENT**

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### **AN ACT**

establishing a study committee to develop a plan to provide  
public assistance to private institutions of  
higher learning in this state.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Committee to Study Assistance for Private Higher Education. There is hereby established an interim study committee to study and develop a plan for providing public assistance to private institutions of higher learning in this state. The committee shall consist of two senators appointed by the president of the senate, two members of the house of representatives appointed by the speaker of the house and two persons, jointly appointed by the president of the senate and the speaker of the house after consultation with the New Hampshire university and college council, one to represent the university of New Hampshire system and one to represent private institutions of higher learning in the state. The committee shall elect a chairman from among its members. Committee members shall not receive compensation. The committee shall study various forms of public assistance which may be provided for private institutions of higher learning and shall develop a recommended plan for such assistance. The committee shall submit its findings and recommendations, together with a draft of any proposed legisla-

tion, to the 1975 regular session of the General Court no later than the last Wednesday of December, 1974.

2 Effective Date. This act shall take effect upon its passage.

Sen. FOLEY: This bill provides limited tuition assistance for New Hampshire high school graduates who wish to attend accredited institutions of higher learning within the State. Some of these fine private schools in our state are having financial difficulty, while our own state institutions have too many students who want to go there. This would give some of the students who wish to go to the private schools the difference between the tuition of the public state institution and the private institution they wish to go to. This was originally the bill. However, Senator Jacobson came before the Finance Committee and stated that there was a study committee and there had been a lot of work going on to see if the private institutions and the public institutions could come to some type of agreement through a study commission. The amendment simply allows the President of the Senate to appoint a study group that will report back to the next session of the Legislature. It will include not only two senators, but it will include people from the House and, in addition to that it will include somebody from the private institutions and somebody from the public institutions. Perhaps Senator Jacobson would like to enlarge on my explanation.

Sen. JACOBSON: I speak in support of the amendment. As you know, I pleaded for the entry of this bill and once the bill got entered, it became clear that various groups around the state were working on various plans, such as a voucher system for higher education; a tax rebate system; the tuition assistance program as this bill originally intended; a student subsidy program; and that the New Hampshire College and University Council, which is a group of both private and public colleges joined together were working on a plan. I had a long conversation with Mr. Monroe, who is the Executive Secretary of that Council; I had a long conversation with President Harold Hyde of Plymouth and together we agreed this is the way to go at it and that they would come in with a plan in the 1975 session to deal with the question. It seemed to me this would be a reasonable way and I did not want to destroy the mutuality that had already begun to be built up between the private colleges and the public colleges within the system. I also found that other states such as Maryland, Pennsylvania, New York and Massa-

chusetts have come to that kind of an agreement and I think this is the proper and reasonable way to approach this very serious problem. I hope the Senate will adopt the amendment, that it will pass through the House and have the support of everyone and that we can come back with a plan that will work for the benefit of the entire community of New Hampshire.

Sen. GREEN: I would like to reiterate the words of Senator Jacobson. In co-sponsoring this with Senator Jacobson, I concur with the approach here. This is an opportunity for the public institutions and the private institutions to get together and come up with a bill that will be reasonable for both sides. I received a number of communications in relation to this and there seems to be agreement that they want to go this route but there is disagreement about what is the best way to do it. I would like to rise in support of the amendment.

Amendment adopted.      Ordered to third reading.

## SB 10

establishing a sire stakes program and a standardbred breeders and owners development agency. Ought to pass. Sen. Green for Finance.

Sen. Green moved adoption of the following amendment.

### AMENDMENT

Amend RSA 426-A:5 as inserted by section 1 of the bill by striking out said section and inserting in place thereof the following:

426-A:5 Sire Stakes Fund. There is hereby established a fund within the department of agriculture, to be known as the sire stakes fund, which shall be kept separate and distinct from all other funds appropriated to such department. All revenue received pursuant to the provisions of RSA 284:22, II, shall be deposited in such fund. Said funds are hereby continually appropriated for the payment of awards and the costs of administering the provisions of this chapter, including the remuneration of the expenses of the board, and shall be disbursed by the commissioner of agriculture or his delegate. The state treasurer upon the certification of the commissioner of agriculture or his

delegate and with the approval of the board of trustees, shall make payment to the designated harness track for reimbursement of such funds as are paid by said track as the award for an approved sire stakes race. The commissioner of agriculture shall file a report annually with the state treasurer setting forth an itemization of all deposits to, and disbursements from, said sire stakes fund.

Sen. GREEN: The Committee Report out of the Senate Finance Committee was ought to pass, with the understanding that I would offer an amendment to the full Senate. At the hearing yesterday on this bill, there was some concern by members of the Senate Finance Committee that in the bill it was not clearly specified as to how the moneys for this fund would be dispensed. The only section that changes from the original bill is the section that starts with "The state treasurer upon the certification of the commissioner of agriculture or his delegate and with the approval of the board of trustees, shall make payment to the designated harness track for reimbursement of such funds as are paid by said track as the award for an approved sire stakes race." This clarifies specifically how the funds are to be disbursed. I offer that amendment and ask for your support.

Sen. TROWBRIDGE: I would like to speak in favor of the amendment. When going through the bill, we found we established the fund and we paid it into the Treasurer but there was no mechanism by which the Treasurer could pay over to the track. This amendment takes care of that nitty gritty item.

Amendment adopted.      Ordered to third reading.

## **SB 7**

relative to capital improvements to the Mount Washington summit and making an appropriation therefor. Ought to pass with amendment. Senator Sanborn for Finance.

## **AMENDMENT**

Amend section 2 of the bill by inserting at the end of section 2 the following new sentence:

No bonds authorized in this section shall be issued prior to January 15, 1975, and then only with the specific authority of

the Governor and Council for the purposes set forth in section 4.

Sen. SANBORN: All the amendment does is amend section 2 of the bill by adding at the end "No bonds authorized in this section shall be issued prior to January 15, 1975, and then only with the specific authority of the Governor and Council for the purposes set forth in section 4." What this does is the Commission has said they would raise \$1 million prior to the start of the bond issue. They are already at work on this and this just makes the bill clear in that area. In whole, it is a very good bill, much better than what came to us under the capital budget during the regular session. I urge the Senate to accept the amendment and the bill.

Sen. POULSEN: I rise in support of both the bill and the amendment. The amendment seems to be the correct way to get past the objections there were to the bill.

Sen. S. SMITH: I also rise in support of both the bill and the amendment. This has been in the fire for several years and I think it is time the State went on about the business of re-vamping of the top of Mt. Washington which I think many feel is a disgrace. I think the Commission has worked long and hard to bring about these improvements on the top of Mt. Washington.

Sen. LAMONTAGNE: I want to concur with the remarks made by the Honorable Senators from the 2nd District and the 3rd District and also urge acceptance of the amendment.

Amendment Adopted. Ordered to Third Reading.

## SB 17

relative to the New Hampshire Port Authority and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for Finance.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye

harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. The sum of two million three hundred thousand dollars is hereby appropriated to the New Hampshire Port Authority for the construction of a second docking facility for oceangoing vessels in Portsmouth, provided however that no funds shall be expended under this section until completion of a study commissioned jointly by the department of resources and economic development, the city of Portsmouth and the Southeastern Regional Planning Commission at their expense to determine the desirability of such expenditure for the extension of the Port Authority facilities. Such study shall include but not be limited to consideration of warehousing, cold storage facilities and the nature of ownership and shall be the basis of a report to be submitted to the fiscal committee of the general court and the governor and council. If such report and recommendations are approved by both the fiscal committee and the Governor and Council, the bonds authorized may be used to fund the facilities so recommended by the report.

2 Extension of Appropriation. Amend laws of 1971, 559:1, XI by striking out said paragraph and inserting in place thereof the following:

XI. Port Authority	14,000
(a) Rebuild pilings at Barker wharf (tanker dock facilities)	
(b) Study proposal for a second docking facility for ocean-going vessels in Portsmouth in conjunction with city of Portsmouth and Southeastern Regional Planning Commission	

The sum appropriated by this paragraph shall be available for expenditure until June 30, 1976.

3 Appropriation for Fishing Pier in Portsmouth. The sum of three hundred eighty five thousand dollars is hereby appropriated to the department of resources and economic development for capital improvements to be expended as follows:

1. Commercial fishing pier and docking facility adjacent to Prescott Park in the city of Portsmouth on land to be leased from the city of Portsmouth at a rental of not more than one thousand dollars per year.

The department of resources and economic development shall be empowered to charge reasonable user fees and such fees shall be dedicated to the maintenance of the facilities. Fishing vessels shall at all times have priority use of this facility.

4 Appropriation for Pier in Rye and Hampton. The sum of three hundred fifty thousand dollars is hereby appropriated to the department of resources and economic development for the construction of a fishing pier and related boating facilities in Hampton harbor and/or Rye harbor. The department shall be entitled to charge reasonable user fees which shall be dedicated to the maintenance of the facility.

5 Marine Science Facilities. The department of resources and economic development is directed to locate suitable docking and support marine science facilities of the university of New Hampshire at locations under its jurisdiction, jurisdiction of the Port Authority or other locations suitable for this purpose subject to concurrence of the board of trustees of the university of New Hampshire. The sum of fifty thousand dollars is hereby appropriated to the department of resources and economic development to construct or reconstruct or add to docking facility for this purpose.

6 Bonds Authorized. To provide funds for the appropriation made in sections 1, 3, 4 and 5 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of three million eighty five thousand dollars and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

7 Principal and Interest. The payment of principal and interest on bonds and notes issued for the projects authorized in sections 1, 3, 4 and 5 of this act shall be made when due from the general funds of the state.

8 Prohibition of Certain Activities by the Authority. Amend RSA 271-A by inserting after section 15 the following new section:

271-A:16 Prohibition of Certain Activities. Notwithstanding any other provisions of this chapter, the authority shall not construct, own, lease, operate or take any other action with respect to any pipe-line, pumping station, on-shore or off-shore loading facility, refinery, bulk storage or transmission facility or processing plan connected directly or indirectly with the processing of oil or liquefied natural gas.

9 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: SB 17 has been through a number of revisions since it arrived here a couple of weeks ago. The purpose of the bill is to work out the docking facilities necessary for various purposes on the seacoast. I would like to take the portions separately.

In section 1, we appropriate \$2.3 million to the New Hampshire Port Authority for the construction of a second docking facility. This has had some controversy, as you know. It has been up and down. In order to get agreement as to whether a new docking facility should be passed, we have provided in here that "no funds shall be expended under this section until completion of a study commissioned jointly by the department of resources and economic development, the City of Portsmouth and the Southeastern Regional Planning Commission at their expense" and that this report will come back to the Fiscal Committee of the General Court for approval by the Governor and Council, so that there will be feedback to this Body. The Fiscal Committee is the only one that exists during the interim and that is why we picked that. We will know whether the expenditure of this \$2.3 million is really necessary and desirable. But it does get the issue out into an area where it can be resolved rather than just sort of floating around.

Section 2 of the bill extends the capital budget for 1971 for rebuilding the pilings at the Barker Wharf and that has been done.

Section 3, Appropriation for Fishing Pier in Portsmouth. Since we talked last Session, I believe the Trustees of the Trust Funds in Portsmouth have agreed to acquire the Marconi land next to Prescott Park and the City of Portsmouth by putting up \$200,000 to provide entry toward the sea. The Marconis want the shore front to use for a commercial fishing pier and this we find to be a very desirable site. In order to make sure



that the City of Portsmouth has some control, the provision is that there shall be a lease by the City of Portsmouth of the land so that the terms of the lease would be the mechanism whereby the City of Portsmouth would, in fact, have control. We also provide there will be payment by DRED on a lease rental of not more than \$1,000 per year. The present property has taxes paid of some \$1,300 per year. So, the purpose of this is that there will be reasonable user fees, but the fishing vessels at all times have priority use of this facility. This amendment, I think, takes care of the commercial fishing fleet and the appropriation is \$385,000 of State money. Remember the City of Portsmouth is putting up \$200,000 of their own Trust Funds to acquire the property.

Section 4, Appropriation for Pier in Rye and Hampton. The sum of \$350,000 is appropriated to DRED to construct a fishing pier and related boating facilities in Hampton Harbor and/or Rye Harbor. This has been brought up as a new item in this bill but it has been agreed upon as a necessary facility in Rye and Hampton.

Section 5 of the bill, Marine Science Facilities. Now you know, we already have at UNH a couple of rather big vessels for their oceanographic studies. They have to spend some 3 to 3½ hours chugging down the Piscataqua using oil and gas and everything else just to get to the sea.

They want a pier so they can avoid going back and forth up the river. Commissioner Gilman has taken it upon himself to find a suitable docking facility for them on the seacoast and we appropriate \$50,000 to his Department if he should find the right place so that he can get a suitable docking for the *Jere Chase* which is 45 feet long and the other boat.

Section 6 would be the bonds authorized for the foregoing sections 1, 3, 4 and 5 of the act and is \$3,085,000.00, which is a total of all the individual parts.

Then Section 8 is possibly the controversial part we will hear today. What happened is yesterday we had the Finance hearing and an attorney appeared before our Committee and told me something that had never been raised before, namely that under the statutes creating the Port Authority, the Port Authority has power to construct, own, lease, operate or take any action with respect to any pipe-line, pumping station, on-shore or off-shore loading facility, refinery, bulk storage or

transmission facility or processing plant for oil or liquified natural gas. It has been said by Commissoiner Gilman in his refinery study that they plan to use the Port Authority as a mechanism for the off-loading of oil if a refinery were to come. What I did not mention was that under Section 13 of the act creating the Port Authority, it says that the Port Authority has the power to accept gifts for the construction of facilities. Now, as this attorney pointed out — and I thought he was very dramatic about it, he wasn't trying to raise a big scare — he said that, normally one would think that the Port Authority, if it were to expand into areas other than just the cargo loading which they now do, they would need more money and they would need an influx of funds and so the Legislature would have control in that they would have to fund the expansion. He said, I am a bit scared, since the Authority act has the power to accept gifts, that something might happen in this particular time that we are in and he said we would be much happier with the expansion of the Port Authority if we knew it was going to be limited to loading and unloading the cargo, which is, of course, what they are doing now. So the Port Authority is beginning to get into a squeeze between the refinery issue and other issues and their own success in getting a docking facility is being jeopardized, in my opinion, by the possibility that this could be used for some unintended purpose. Therefore, I put in a section that had been recommended.

The Senate Financing Committee who were voting agreed unanimously that we should at least put a hold on the Port Authority at this time so that there would be no means whereby the legislative authority that was granted in 1965 with nobody thinking in particular terms of the refinery could somehow be a springboard to be used while we are not in session. Therefore, we put it in that, notwithstanding any other provisions of law, the authority shall not construct, own, lease, any other pipe-line or pumping station etc. dealing directly or indirectly with the processing of oil or liquified natural gas. Since we put that on, I have had some objections to section 8, as written. I have another amendment which will be coming along after you accept the Committee Report which says that notwithstanding any law to the contrary the Port Authority will not exercise its authority to go off into pumping stations or oil refining or bulk storage without the approval, again, of the Fiscal Committee of the General Court and the Governor and Council. What I

really am trying to do is just put a hold on the situation so that there is some control by the executive and the legislative branch so that we don't find this thing going off without any knowledge on our part. Senator Preston is going to make an amendment. But, rather than offer my amendment just now, I would rather answer questions, then argue his amendment and then come back with my other amendment.

I certainly do not want to jeopardize this piece of legislation on which we have worked so hard by the fight over whether the Port Authority should have the authority or not. Hopefully we can have that as a separate question because I believe the rest of it is fairly well agreed upon by all parties concerned.

Sen. LAMONTAGNE: Could you tell us whether the fishermen are in favor of the last amendment you proposed?

Sen. TROWBRIDGE: Mr. McDonough, I think it is, I showed him this amendment he said that is fine. I then showed him my other amendment that I am going to bring up which doesn't completely repeal their authority — it just says it needs the approval of the General Court and the Governor and Council — and he said that would be even better. But what the fishermen are worried about is that this issue might jeopardize their fishing pier. That is what they are worried about. They were wondering about whether if they put the fishing pier in there and then the Olympic boats that are going back and forth use the fishing pier, they can't get in to them. So I specifically put an additional amendment in which says fishing vessels shall at all times have priority use of this facility in order to make sure that it was not going to be used just for other boating. So, they are satisfied with the bill completely so long as it passes. Their worry, I think is that somehow this issue may make it not pass and be vetoed.

Sen. LAMONTAGNE: Don't you feel this is going to tie the hands of the Port Authority and therefore they will not be able to expand?

Sen. TROWBRIDGE: There are a great many powers given the Port Authority in the original bill. What we are saying is that those powers that have to do with the transmission of oil or liquified natural gas — they are not using those authorities now and I might say there is no intention here for us to prohibit the little pipe-line for Coleman Gas which comes through

there now. I would like to have the record show that we are not in any way talking about that little pipe-line that exists. But all I am restricting them on is that part of their activities which they have no intention of using at the present time. They are interested in general cargo — scrap iron, goods, mahogany, all this — this is what they want the extra pier for. So, as long as we are talking general cargo, that is fine. But when we heard about the fact that they had the authority to go out and do almost anything in the oil and gas transmission field and they have the authority to accept gifts, that is when the Senate Finance Committee said, we'd better put some control over that authority. That is why that is the amendment we are offering. Really, if we could hold off until the refinery issue is over and done, I would rather have it, but we have a period of time here where there is a little gap.

Sen. LAMONTAGNE: I have been told there is an amendment that the Senator from the 23rd District is aware of. Are there any amendments at all that the Senator from the 23rd District is not aware of that are going to be presented at this time?

Sen. TROWBRIDGE: No. I have talked to the Senator from the 23rd District twice today and he knows everything. In fact, I prepared his amendment for him.

Sen. DOWNING: The limitation that this final part of the amendment would put on, or is attempting to put on, the Port Authority, what consideration was given to the present leaseholder of the Port Authority property and the power they have to permit storage of fuels and other things and the Port Authority does not have anything to do with it, rather the leaseholder does?

Sen. TROWBRIDGE: The Clark Company I talked with and I have shown them my second amendment which does not outlaw anything but gives control and he has agreed. I tried to cover the bases as to who would be concerned — is there any storage; is there anything under the lease that would prevent it. Evidently there is no concern. Secondly, I wanted to mention the Coleman Company because I did not know about it. Stacey Cole came to me and said what about them; they have a little pipe-line that goes under there. And I said I would put it in the record that there was no legislative attempt to go backwards

and not have the present facilities allowed to be there. So, I think I tried to cover whatever objections there could be. So, I don't think that has been raised as an issue.

Sen. FOLEY: Is there any other vehicle we could attach this final amendment to so that it does not become a political football?

Sen. TROWBRIDGE: If we do it right, I don't intend to make it a political football. My second amendment would just give us some curbs if they start expanding and building a pipeline tomorrow. I don't think it is a political football. I don't think we are insensitive to the fact that we need to watch what is going on at the Seacoast. This is what we are all concerned about. There is no other bill in the Senate to which this is germane and, frankly, the testimony came up before the Senate Finance Committee on this bill. So this is the natural place where the Port Authority and its future is being discussed. I don't see anything wrong with putting it in here now. There may be some other bill that will come across from the House, but I want to raise the issue now because the whole thrust of SB 17 is that we keep some control and that the report comes back here that we know what they plan to do and approve it. And that would be true if they went into the oil business.

Amendment Adopted.

Sen. Preston moved adoption of the following amendment.

#### AMENDMENT

Amend the bill by striking out all after section 7 and inserting in place thereof the following:

8 Effective Date. This act shall take effect upon its passage.

Sen. PRESTON: I concur with Senator Trowbridge's remarks. I realize that no one is trying to place the construction of fishing facilities, pier facilities and Port Authority facilities in jeopardy. But, as co-sponsor of this bill, and having worked for two years with all the interests involved, to see particularly that the fishing and boating industries in New Hampshire have decent facilities, I deplore the effort by some, however well intended, to interject the oil or refinery issue into the piece of legislation. I think those who oppose the refinery are now using

the very tactics they accuse the refinery proponents of using. This is a perfectly good bill that will affect a lot of hard working people and several thousands of tourists and now it is in jeopardy because of concerns of the statutory powers of the Port Authority. I can understand what the amendment proposes to do, and I don't particularly disagree with it, but I don't think this is the vehicle to use and those who would benefit from the construction of these facilities could be used as pawns in this political fight regarding the refinery which has been brought to the floor of the House and the Senate. This issue doesn't belong in this bill. I would like to find another niche for it, if you will. But let's fulfill a long overdue commitment to the Seacoast pier facilities in Portsmouth, Rye, Hampton and Seabrook. Let's not muddy up the waters or politically pollute a well intentioned effort to enhance and preserve harbor facilities on the coastline.

Sen. TROWBRIDGE: Since I have another amendment coming up if it doesn't hurt the Clerk too much, what I would like to do, out of fairness to Senator Preston, is to submit an amendment so that the bill as the next step would be there without any reference to the authority of the Port Authority. That way it would have been expunged. Then, I would offer a further amendment which I would consider to be proper which will say what I said before, namely, that the Authority shall not go into the pumping station business without getting approval from the General Court and the Governor and Council. That is the way I would like to do it. Then we could debate that amendment pro and con and then whatever happens, the bill goes off. So, procedurally, Senator Preston, does that sound good?

Sen. PRESTON: Do I understand it that you would support this amendment and it will be open to another amendment that you are about to propose?

Sen. TROWBRIDGE: Yes. I think this makes it fairer to the Senators that they would be then voting for the positive thing and would not be misunderstood about a no vote being yes for something. It is easier if you have it out there as to what you are voting on positively or negatively and I think that is why I am doing it.

Sen. JOHNSON: I think the first time you used the words

“approval by the Fiscal Committee” and the second time “by the General Court.”

Sen. TROWBRIDGE: I meant the Fiscal Committee.

Sen. JOHNSON: What about using the General Court rather than the Fiscal Committee?

Sen. TROWBRIDGE: There really isn't a big problem if we are in session; then you could say the General Court. But we have seen here what has happened that things are moving fast when we are out of session. The only thing that is on-going, that represents both House and Senate, is the Fiscal Committee. So, I am thinking in terms of the interim until the 1975 session to be the legislative guardian.

Sen. JOHNSON: I thought this amendment you are opposing would prohibit the Port Authority from going into the fuel business.

Sen. TROWBRIDGE: What it says is that they shall not exercise their authority, which they have, over pipe-lines, pumping stations, on-shore, off-shore facilities and the like. They will not exercise that authority and expand into those areas without the approval of the Fiscal Committee and the Governor and Council. By the time we get back to the next session, that particular provision may no longer be what we want. We may have created some other legislative vehicle or authority. So this is really a holding pattern during this time.

Sen. JOHNSON: You wouldn't consider coming back to the General Court rather than the Fiscal Committee? This is basically a control amendment.

Sen. TROWBRIDGE: I certainly would if the General Court were going to be in session when this might happen, but I can't guarantee that the General Court is going to be in session.

Sen. JOHNSON: I am interested in the General Court controlling the refinery business. That is why I proposed that rather than the Fiscal Committee.

Sen. TROWBRIDGE: In other words then, if I understand you correctly, they could not exercise the authority until we were in session, whenever we were in session. I would be willing to accept that.

Sen. LAMONTAGNE: Did I hear you correctly to say the General Court *and* the Governor and Council?

Sen. TROWBRIDGE: Yes.

Sen. LAMONTAGNE: Why not just the General Court? Why the Governor and Council?

Sen. TROWBRIDGE: Now you are getting better. What I am trying to do is not ruffle the feathers of anybody by taking the Governor and Council out of it. We have learned some lessons, I think, over the last year or so and I think it is diplomatic, if nothing else, to say the General Court *and* the Governor and Council so that you can't say that they are being cut out of a major decision in the State. That is why I did it that way.

Sen. LAMONTAGNE: When you mention the General Court and the Governor and Council, would it be that the Governor and Council would have the authority when the General Court would not be in session?

Sen. TROWBRIDGE: No, it would not. I mean to have it that we have both the General Court and the Governor and Council involved. Actually, if what Senator Johnson wants is true, then they should oppose Senator Preston's amendment because the amendment, as offered right now, makes their authority less and we have to be back in session before we can grant the authority again so that, actually, my original amendment isn't that bad. I am trying to accommodate, I am trying to help and, frankly, if you want to have the General Court involved completely, the thing to do is to vote down Senator Preston's amendment and let the amendment go throughout as it is now. If you vote for Senator Preston's amendment, then I would offer a further amendment. That is why I am doing it this way. If the sentiment of this body is that you want to have the General Court involved in any further expansion of the Port Authority in the field of pipe-line, oil transmissions, etc., I think the proper thing to do is to pass the amendment as written in your Calendar. Then there could not be any authority until the General Court came back and gave it back to them. Do you follow me?

Sen. GREEN: I am rising in support of Senator Preston's amendment reluctantly basically because I have some real con-



cerns that the Port Authority and its authority as now constituted under the law does allow for an oil refinery off-shore docking facilities and such to be actually implemented regardless of the home rule feelings of the people in the communities that will be affected and regardless of the feelings of the Legislature. They have that authority under the present law — to receive gifts which would be necessary to build such facilities and to construct pipe-lines, etc. I am concerned and well aware of Senator Preston's concern that this bill should not be jeopardized because of the refinery issue. I think we in the Legislature should take the warning and realize that the green flag is up and that we have been notified and made aware of the possibilities of what could occur if we are not careful. Being a very strong advocate of home rule and being a very strong advocate of the will and desire of this Legislature to have some authority over the way these things develop in the State, I think we ought to be awfully cautious. So I am supporting Senator Preston's amendment because I do not want him to feel I am opposed to the Port Authority bill. I am in support of it. But I am doing so with the understanding that Senator Trowbridge's amendment coming in is going to be considered strongly by this group and that we realize there is a need for this Body to be aware of the possibilities if we don't take some precautionary action at this time.

Sen. Downing moved the previous question.

Adopted.

Amendment Adopted.

Sen. Trowbridge offered the following amendment.

#### AMENDMENT

Amend the bill by striking out all after section 7 and inserting in place thereof the following:

8 Prohibition of Certain Activities by the Authority. Amend RSA 271-A by inserting after section 15 the following new section:

271-A:16 Prohibition of Certain Activities. Notwithstanding any other provisions of this chapter, the N. H. Port Authority shall not exercise its authority to construct, own, lease,

operate or take any other action with respect to any pipe-line, pumping station, on-shore or off-shore loading facility, refinery, bulk storage or transmission facility or processing plant connected directly or indirectly with the processing of oil or liquefied natural gas without first obtaining the approval of the fiscal committee of the general court and the governor and council.

9 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: I think I have fairly well outlined the provisions of this amendment. It does not completely take away the authority of the Port Authority. What it does is put a check over the exercise of that authority, especially during the interim when we are not in session, by having the exercise of the authority in the off-shore loading of oil or liquified natural gas come before the Fiscal Committee of the General Court and then the Governor and Council. I picked the Fiscal Committee in that it is representative of both House and Senate; it is in session during the interim and, presumably by the time we come back in 1975, other legislation will be in order perhaps to take care of this situation. I can't think of any better way to do it in order to leave some flexibility that it can happen without the whole General Court coming back into session and yet still give us adequate checks so that it comes through the legislative process.

Sen. DOWNING: I rise in support of the amendment and I do so reluctantly because I see a danger here that we are prohibiting the Port Authority from doing something that they have no control over at this point because they have, in fact, leased this authority away. I don't think we should be misled into thinking that there is an end to this. I think the present leaseholder — and I want it on the record — has a right to enter into certain building projects and take products into that port, etc., that the Port Authority has no longer any control over. They have leased this control away. If something should happen along these lines, I don't think you should think you have the cure all here nor that the Port Authority necessarily is to blame. They may have no control over the very thing you are trying to tell them to control right now. So it is on the record and you are aware of it that there is a leaseholder in the port and there are certain obligations and commitments to them and they have certain authorities now.

Sen. TROWBRIDGE: I agree with you to a certain extent, but that leaseholder only has authority — if he has — over the present area now owned by the Port Authority and, if there is some exercise in Rye or Durham or in the 15 mile radius that is given to them, that would not be covered by the present lease so that the danger of some other rather large facility outside of the present area would not be covered by the lease.

Sen. DOWNING: I think you are correct, but also I believe it is correct to know that the present leaseholder of the Port Authority at their dock now could tie up an oil tanker and pump oil into a storage tank right now.

Sen. TROWBRIDGE: I don't think that is the problem we are addressing.

Sen. JOHNSON: You don't think the words "the Fiscal Committee of" should be left out and it comes back to the General Court?

Sen. TROWBRIDGE: I don't disagree with your argument, I just feel that we were talking as an interim stopgap kind of situation before we get back into regular session again. If I wanted to have the General Court approve anything, I would have gone with my original amendment which would necessitate coming back to the General Court. I think this is enough safeguard and provides some flexibility here. Let's say a perfectly legitimate request comes to the Port Authority, *a la* Senator Downing saying, "We want to trans-ship 400 barrels of oil into a tank car" and they say "do we have authority?" Well, you would not have to bring the whole General Court back in order to do that. The Fiscal Committee meets on a regular basis and with the Governor and Council could give approval. There would be input by the General Court to that group who are representative of you for that purpose. So I am trying to make it not so hard and fast that it becomes the political football that people fear. I am trying to keep the bill alive and yet put a check in it. It's a delicate balance.

Sen. FOLEY: To further answer Senator Downing's question, I believe that if the people feel this \$2 million should be spent for an addition to the Port Authority, it will be a capital improvement and I believe, according to the lease of the Clark Company, any capital improvement made upon the property, it shall be incumbent upon the Governor and Council to have a

new lease and perhaps at this time further safeguards could be put into the new lease.

Sen. BOSSIE: I find it rather interesting in your comments as pertain to the Fiscal Committee of the General Court and the Governor and Council you feel it will be more facile that we handle the situation since the General Court would not be in session most of the time. If you feel this way, why don't you have a termination date for this amendment as well, so that say in January of 1975 presumably we will be back until next July, so why don't you have this in effect until April 1 of next year?

Sen. TROWBRIDGE: It did occur to me after I had it done because the philosophy of what I am talking about. But any law we pass now can be repealed next session and so I thought that in essence rather than having it run out by a certain time we will probably be considering this issue again and that would be taken up naturally as we went into something else. I agree with you, but it is a little cumbersome right now.

Sen. SANBORN: I would like to rise in favor of the amendment. As I stated in the Finance Committee yesterday when we first discussed this, I favor it on one basis — we have observed here in New Hampshire what our southern neighbor has done in granting much authority to their Port Authority and, lo and behold, they own airports, bridges, highway extensions and Lord only knows what else and no one seems to have any authority over that body. I don't want to see the Portsmouth Port Authority suddenly owning all the bridges, airports, etc. in the seacoast region. I do think this does provide somewhat of a protection to us in that area. I do it, as some others have said, somewhat reluctantly. I feel assured myself that this amendment will not stop the Port Authority bill this is on. I feel it is time we recognize the need for the fishermen's pier and for the extension of the docking facilities, etc. in that area. I want it clearly understood that I don't feel this will hurt the bill too much and I hope the bill passes.

Sen. BROWN: I reluctantly rise in support. I do so because I feel the bill without this amendment is a good bill and there has been an awful lot of time put into it and the fishermen need this pier drastically. My colleagues and myself who represent the seacoast area have done as much as we can in the

past to help the lot of them. I am a little reluctant in voting for it because I feel it is going to jeopardize the bill, but my colleagues seem to think we have a pretty good chance in the House and I pray it doesn't.

Sen. LAMONTAGNE: I rise in support of the amendment and at the same time I am hoping the amendment will not hurt, although I have been promised that it will not. I have been a supporter of the Port Authority ever since 1961 and certainly if there is any way at all the Port Authority can expand so that it can operate, and operate in the black, which I am hoping it will, I am in full support.

Amendment Adopted.      Ordered to Third Reading.

(Sen. Porter in the Chair)

#### SB 11

establishing a state historic preservation office and making an appropriation therefor. Inexpedient to legislate. Sen. Sanborn for Finance.

Sen. SANBORN: The Senate Finance Committee has deliberated further on this bill and at this time I would move the words "Ought to Pass" be substituted for the Committee Report "Inexpedient to Legislate."

Sen. SPANOS: I want to thank the Committee for the reversal of their report. I appreciate their consideration in this matter. I was not present at the time that the Finance Committee did vote. I had left a message to be called when they did meet. However, when the message came, I was somewhere else. So I appreciate the opportunity to talk to the Committee again and give my views on why I think this should be passed.

SB 11, as you know, passed in the last regular session unanimously, went into the House and passed with no difficulty and then was pocket vetoed by the Governor. This is the bill which provides for the preservation of our cultural, historic and architectural landmarks, which I think deserve preservation. We are slowly turning into an urban cosmopolitan community in this state and I think the best thing we could do would be to keep intact some of the wonderful landmarks that we have in this great state of ours. The bill was vetoed, I understand, because there was some misunderstanding between the State Historical Commission and the sponsors of the bill and the intent of the

bill. I believe that the Governor erred and I believe that the State Historical Commission erred in believing this was some kind of a conflict. I am not denying the conflict exists. As a matter of fact, one of the reasons why the bill was vetoed was because there were certain people in the State Historical Commission who felt they were not being treated fairly. The Executive Order has been announced by the Governor, which has now created the State Historical Preservation Office and it is funded until July of 1974. After that period of time, there will be no funds.

Why I say it is an emergency to have this matter considered at this time is because I believe very strongly that when the Governor issued the Executive Order creating the State Historical Preservation Officer it was in violation of the Administration Procedure Act which outlines that there shall be no order, no rule and regulation which makes policy a law without a hearing being held on the matter and then after adoption the filing of that rule and regulation and order with the Legislative Services. And I am very much worried that someone is going to walk in and say that the Executive Order is illegal and then the whole program goes right down the drain; we get no federal funds and the whole program dies. The Chairman of the Executive Departments, Municipal & County Governments Committee supports this venture, supports this bill. He found no reason why the measure did not have the same interest, the same reasons for passing now as it did during the regular session and I understand was a unanimous vote. And I ask you now, rather than have another court fight, I ask you to make the State Preservation Commission a legislative department, an act, by legislation and not by Executive Order as I feel that we may run the risk again of a court action and another set back for the Administration. Politically, that might be a good thing for me, but I am concerned about the measure passing and that this become an existing legislative department so that we can, in fact, preserve the historic landmarks of this great State. I urge that you go along with the amended version of the report as ought to pass.

Sen. JACOBSON: I did not hear any explanation of why the original report was inexpedient to legislate. Could you summarize in a couple of sentences why the Committee felt that way?

Sen. TROWBRIDGE: The problem, I take it, is the fact there is a cat and dog fight between the various historical commissions, the commission for antiquities and various groups that are interested in controlling the disposition of the federal funds for historical sites. So far it has been impossible to get them to completely agree. Hence, when the bill in the last session went to the Governor, some of the people called the Governor and said please veto. It also appeared to us that perhaps since the Executive Order that Senator Spanos referred to was at least working so far and no one was challenging it so far, that the use of the federal funds that will expire in 1974 was protected and that we could wait until 1975 to find out if we could get agreement between the various groups so that they are not cat and dog fighting. However, then Senator Spanos said, look you really should not, as a principle, work this way of having an illegal Executive Order, or possibly illegal Executive Order, be the framework upon which we are getting federal funds because that is not right. So, we feel the best thing to do here now having heard that — we did not hear much from Senator Spanos in the beginning as he was on another committee — was to pass the bill out and, if there are further facts to deal with we will find out in the House and keep going.

Adopted.      Ordered to Third Reading.

## SB 6

relative to landlord-tenant relations. Without recommendation. Bossie for Judiciary.

Sen. Foley moved the words "Ought to Pass" be substituted for the Committee Report "Without recommendation."

Sen. FOLEY: The Supreme Court has made a ruling in regard to tenant-landlord relations and SB 6 is simply putting this ruling into our law books. A tenant must have his rent paid up to date before he can call in officials if he feels his landlord should improve his place of habitation for safety or health reasons. The landlord has a reasonable time to prepare or remedy the problem. If the landlord feels the tenant has been treating him unfairly, then the court shall direct the tenant to pay his rent to the court so that the rent will be paid and the landlord will be completely reimbursed. This bill was presented to the Senate at the last session. It is exactly as the House passed it last time. The Judiciary Committee feels there might be a few tech-

nicalities which we hope will be ironed out in the House. In addition to that, a few of the House members have asked me if this bill is going to pass because evidently they have a few amendments they wish to tack on so I am hoping it will pass this body and go into the House.

Sen. LAMONTAGNE: What happens when the tenant goes to court and the court orders the individual to vacate and then the people have no place to move into? What happens then?

Sen. FOLEY: You mean the tenants have no place to move? I don't understand your question. You mean if a tenant has his rent completely paid up before he comes in?

Sen. LAMONTAGNE: Yes.

Sen. FOLEY: There is a section in this that says there shall be no retaliation.

Sen. DOWNING: Is there a section on retaliation protection for the landlord and tenant equally?

Sen. FOLEY: Yes.

Sen. DOWNING: You touched on the funds being held by the court, rent being paid to the court instead of to the landlord anytime that the tenant —

Sen. FOLEY: No, not anytime. If a tenant finds there is something physically wrong with the house or medically wrong for health reasons, he tells the officials in the town or city that this is wrong. They give the landlord a reasonable time in which to fix it. If the landlord feels the house is all right, then he can go to court and say the house is all right and they have no right to do this. Then the tenant shall keep on paying his rent and pay it to the court until the house is fixed. If the court decides there is nothing wrong with the house, he still gets the rent in full.

Sen. BOSSIE: Is it not true that basically what this bill does is to codify what the Supreme Court has stated to be the law in New Hampshire?

Sen. FOLEY: It is the law of New Hampshire. We are just trying to put it into the law books. I might add that it was a large hearing and no one appeared in opposition to the bill.

Sen. BRADLEY: The reason why the bill was reported



without recommendation from our Committee was simply that the Committee had not gotten to the point where it had acted when we had to get it into the Calendar. Subsequent to that, I had polled the members of the Committee who were present and the poll is that it ought to pass. Had we not been under the time bind, the Committee report would have been ought to pass.

Adopted.      Ordered to Third Reading.

## **SB 12**

to further protect the rights of mobile home owners by requiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks. Ought to pass with amendment. Sen. Bradley for Judiciary.

## **AMENDMENT**

Amend the title of the bill by striking out same and inserting in place thereof the following:

### **An Act**

to further protect the rights of mobile home owners by requiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks and by requiring that tenants be given copies of such rules and regulation.

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Tenant to be Given Copy of Rules. Amend RSA 205-A:2 (supp), as inserted by 1973, 291:1, by inserting after paragraph VI the following new paragraph:

VII. On and after July 1, 1974, fail to provide to each tenant who resides in his park a written copy of all rules and regulations of said mobile home park. Said rules and regulations shall set forth all terms and conditions of the tenancy and shall contain the following notice at the top of the first page printed in capital typewritten letters or in ten point bold face print:

### **Important Notice Required by Law**

The rules set forth below govern the terms of your rental

agreement with this mobile home park. The law requires all rules and regulations of this park to be reasonable and to conform with the guidelines established by the Consumer Protection Division of the Attorney General's Office. No rule or regulation may be changed without your consent unless this park gives you ninety days' advance notice of the change. If you think any rule or proposed rule is unreasonable, you have a right to ask the Consumer Protection Division of the Attorney General's Office for an opinion on the reasonableness of the rule. No rule so questioned by you may be enforced unless and until the Consumer Protection Division of the Attorney General's Office approves the particular rule.

You may continue to stay in this park as long as you pay your rent, do not damage park property and follow the rules of the park. You may be evicted for nonpayment of rent, but only if you fail to pay all rent due within thirty days after you receive written notice that you are behind in your rent.

You may also be evicted for not following the rules of this park but only if you have been given written notice of your failure to follow the rules and you then continue to break the rules. You may not be evicted for joining a tenant organization.

If this park wishes to evict you it must give you sixty days' advance notice, except if you are behind in your rent in which case only thirty days' notice is required. The eviction notice must give you the reason for the proposed eviction.

If this park requires you to deal exclusively with one fuel dealer or other merchant for certain goods or services. The price you pay for such goods or services may not exceed the average prevailing price in this locality for such goods and services.

You have the right to sell your home in place to anyone as long as the buyer and his household meet the rules of this park. You must notify the park if you intend to sell your home. Failure to do so may mean that the buyer will be required to move the home from the park.

Copies of the law under which this notice is required may be obtained from the Consumer Protection Division of the Attorney General's office, State House Annex, Concord, New Hampshire 03301.

3 Effective Date. This act shall take effect sixty days after its passage.

Sen. BRADLEY: This bill is a follow-up to the so-called mobile home owners bill of rights which was passed in the regular session. The bill, without the amendment, has the thrust of authorizing the Consumer Protection Division of the Attorney General's Office to establish and promulgate guidelines for the regulations which are adopted by the park owners. It also provides for the possibility of the park owners submitting their proposed rules and regulations to the Consumer Protection Division to rule on the reasonableness of those rules. The problem is that we have outlined a number of rights which the mobile home owners have, but putting these rights into effect as a practical matter on a day to day basis has proved very troublesome and a number of questions need to be answered on the reasonableness of some of the regulations which have been adopted. Perhaps the most striking example of the sort of problem brought before our Committee — in one mobile home part, a regulation had been adopted that dogs would be allowed without charge so long as they were not over 9 inches in height and, if they were over 9 inches in height, then there was a charge for the dog. That seems to be the sort of thing that is going a little too far, but is the sort of thing the Legislature cannot deal with effectively and needs to be dealt with by rule making authority in the Consumer Protection Division.

The amendment is simply to add to the bill the further requirement that when the park owner passes out the rules and regulations, they must include with them this notice which is the amendment. That simply sets forth the highlights of what the mobile home owners bill of rights is all about. In other words, this is just a way of making sure that the public that we are trying to protect by the law knows what their rights are under the law.

Sen. JACOBSON: It was brought to my attention that the enforcing agent of this is the Attorney General's office. It was also brought to my attention that they don't want the job. Are we creating a serious problem here?

Sen. BRADLEY: You do touch on a very serious issue which I did not get into — that is the fact which was argued before the Committee as to who the appropriate agency is to promulgate these rules and pass on these rules and guidelines. The Attorney General's Office has indicated to us quite clearly that they don't want the job. They feel that their function is more

one of law enforcement rather than law making, if you will. Their recommendation is that this power should be vested in the new Housing Authority which was created in the regular session of the Legislature. I think if I can summarize the feeling of the majority of the Committee that voted on this, was that while the Attorney General's office undoubtedly has a good argument on general principles that indeed this is not particularly the sort of thing the Attorney General's Office ought to do in the long run, I think it was the Committee's feeling, as a practical matter on a day to day application, the Attorney General's Office is capable of handling this whereas there is no way to tell whether or not the Housing Authority is capable of handling it because they are just getting established and to be very frank with you, none of us have even talked with the Executive Director of the Housing Authority to know whether he is in favor or not, or even knows what it is all about. So it just seemed to us that, at least for the time being, it should stay in the Attorney General's Office and that the Legislature will have to beg the indulgence of the Attorney General's Office if the bill passes.

Sen. JACOBSON: Last session we separated the Tax Commission into two parts — one having to do with the administration of it and one having to do with the appeals from its administration. As I understand it, the Attorney General's office feels they are going to be, first of all regulators and then judges of their own regulations under this bill. Would you say that would be a proper kind of judicial procedure?

Sen. BRADLEY: The analogy is pretty good, but not perfect. The idea is that there are two different functions going on here and the Attorney General's Office sees their function as a little bit different. However, in fact, the Attorney General's Office has been involved in the administration of the mobile home owners bill or rights and does have people who are competent. They are the same people who would have to hold the hand, we are sure, or we believe, of the Housing Authority because the Housing Authority obviously would need legal assistance in this. The Attorney General's Office, to give them their due, has said they would assign someone to assist the Housing Authority in this matter. It is a real problem and there is no getting around it. Neither solution is a perfect one, but I think it is the feeling of the majority of the Committee that sat on it that, at

least for the time being, it is better to leave it with the Attorney General's office.

Sen. JACOBSON: I have a question with regard to the phrase "prospective tenant." Would that allow a prospective tenant to go to say 20 or 30 parks and then go through the procedure that is established?

Sen. BRADLEY: I am not sure of the context in which you ask that question.

Sen. JACOBSON: "A tenant or prospective tenant may request the Consumer Protection Division —." The Attorney General's office apparently feels that this would create all sorts of problems.

Sen. BRADLEY: I was not aware that was a particular issue which the Attorney General's Office pointed out. Perhaps they did and perhaps that was removed from their proposed amendment. The idea is that someone who is planning on moving into a park ought to be able to question an unreasonable rule as well as anyone else.

Sen. JACOBSON: I am wondering if it would not be a better part of judgment with regard to this that the prospective tenant be someone who has made at least a tentative commitment. I would assume that you could be prospective — now when I go out to buy a car, I am a prospective buyer of a car from perhaps 20 different dealers, but I don't make a commitment to 20 different dealers.

Sen. BRADLEY: You raise a valid point, I think, and it is one I don't think the Committee grappled with at all. I personally had not thought about it and I certainly don't want to go very far into defending that particular provision. If it were any other day, I would suggest it come back to us and we take that out. But, in view of the deadline, my suggestion would be to let it go on to the House where the Attorney General is certain to have his input again — he so indicated to us — and have it come out in the House.

Sen. DOWNING: At the top of page 2 of the amendment, it says "no rule or regulation may be changed without your consent unless this park gives you 90 days' advance notice of the change." Does that mean that the park is only required to give 90 days' notice of that change, or a maximum of 90 days?

Sen. BRADLEY: That reflects the present law. The present statute says that and this is just telling the tenant that is what the law is.

Sen. DOWNING: Does this, in fact, change the present statute by this amendment in saying that even if you have a year's lease a regulation can be changed within 90 days instead of waiting for the renewal of the lease?

Sen. BRADLEY: No. I feel fairly confident that this particular provision would not overrule or wipe out a lease provision which was more protective to a tenant than that.

Sen. DOWNING: Further down, "no rules so questioned by you may be enforced unless and until the Consumer Protection Division in the Attorney General Office approves the particular rule." There is no time limit requiring the Attorney General's Office to respond, which means that the question is on for an indefinite period of time.

Sen. BRADLEY: I think that in section 1 of the bill it does require there the Attorney General render opinions within 30 days.

Sen. DOWNING: On the amendment, "you may be evicted for non-payment of rent 30 days after you receive written notice that you are behind in your rent." There is a conflict there with the statutes as they now exist relative to eviction procedures. Are we establishing another standard for mobile home owners other than people in conventional homes?

Sen. BRADLEY: You are asking me?

Sen. DOWNING: Yes.

Sen. BRADLEY: It was my understanding, and I will double check the statute, that again is simply attempting to reflect what the present law is.

Amendment Adopted.      Ordered to Third Reading.

## **SB 19**

specifying procedures for termination of residential gas or electric services. Ought to pass with amendment. Sen. Bossie for Judiciary.

## **AMENDMENT**

Amend RSA 363-B:1, I, as inserted by section 1 of the bill,

by striking out said paragraph and inserting in place thereof the following:

I. No public gas or electric utility, as defined in RSA 362:2 shall terminate any residential service without good cause and without providing the person to whom such service is provided at least ten days' advance written notice of the utility company's intent to terminate service. Such notification shall be sent by regular mail or shall be delivered by hand and shall inform the customer of the proposed date of termination, the reason therefor, and the manner provided in RSA 363-B:2 by which the customer may question or contest the reason for termination.

Amend RSA 363-B:2, as inserted by section 1 of the bill, by striking out said section and inserting in place thereof the following:

363-B:2 Conference Provided.

I. Any person who receives a notice of intent to terminate service pursuant to RSA 363-B:1 and believes such proposed termination to be unjustified may request, prior to the date specified in the termination notice, a conference with the utility company involved to review the basis for the proposed termination. If the customer is dissatisfied with the outcome of the conference he may, within three days after the conference, request a conference with a staff member of the commission to review the basis for the proposed termination.

II. In the event of a request for a conference with the public utility, the public utility shall continue service to the customer for three days after the conference or to the date specified in the notice of termination, whichever comes later.

III. At the conference, the public utility shall inform the customer of his right to request a conference with a staff member of the commission and shall provide the customer with a form for requesting such a conference. In the event of a request for a conference with a staff member of the commission, the public utility shall continue service to the customer until such time as the staff member or the commission determines that termination is justified.

IV. Reasonable rules and regulations to carry out and enforce this chapter shall be issued by the commission.

Sen. BOSSIE: This bill is sponsored by Senator Jacobson, our good friend Senator Claveau who is not with us today, and myself. The same exact bill was passed by this Senate last June. What the amendment does is this. It provides that rather than notice by certified or registered mail, it will be by regular mail. Also, rather than a hearing before the Public Utilities Commission, there will be a conference. A conference does not require public notice or public attendance. I would ask that the Senate concur with the amendment and with the bill. I have spoken with a Public Utilities Commissioner and she advises this is satisfactory in its present form. I spoke with representatives of the various utility companies and it appears they have no opposition to the amended form.

Amendment Adopted.      Ordered to Third Reading.

## **SB 26**

providing for retirement benefits for supreme and superior court justices. Ought to pass. Sen. S. Smith for Judiciary.

Sen. S. SMITH: The Senate and the House are constantly in debate over issues which become heated and often we forget the things that are going well. I think this is the case in this bill. It deals with the judiciary of our State, both the Superior and the Supreme Courts. The judiciary — these two groups — has for many, many years been kept as an independent judiciary, which I think the State is proud of. New Hampshire also, I believe, is the only state in New England which does not have any type of retirement system for the judges of the superior and supreme courts. We have gone around it for many years via the so-called system of judicial referees, but I think the time has come, or is fast approaching, when we must take into consideration retirement and death benefits for the judges of the superior and supreme courts. By the passage of the Code of Ethics relative to a judge's outside participation in any activity it is even more limiting than it was in previous years. When a judge is asked by the governor to accept an appointment to the supreme or superior court, he must take a long hard look at it from the point of view of the security of his family and I think that many would be reluctant to accept such a position due to the fact that there is, under our present system, absolutely, no security in case of untimely death or retirement. What this bill does is place retired judges on a retirement at the age of 70 or 65 if they opt it after a certain number of years of service in the supreme



or superior court. This is not new because we have this system presently under the judicial referee system. It does, however, go further to give benefits to wife or children under the age of 18 if the judge should die in office. This bill would have no effect monetarily at the present time, but it would give security to the judges presently on the bench and would make future appointments more palatable. I hope the Senate will go along with the adoption of SB 26.

Adopted.      Ordered to Third Reading.

(Vice President in the Chair)

### SPECIAL ORDER

Sen. Trowbridge moved SB 18 which was made a Special Order for 1:01 p.m. today be taken up at the present time.

Adopted.

### COMMITTEE REPORT

#### SB 18

providing cost of living increases for retirement allowances paid to currently active members of group I and group II of the N. H. Retirement System, the N. H. Firemen's Retirement System, the N. H. Policemen's Retirement System, the N. H. Teachers' Retirement System and the State Employees' Retirement System, and making appropriations therefor; providing for compensatory contributions for interrupted service and the submission of budget requests of the general court; and providing additional cost of living increases for certain retired members of the N. H. Teachers' Retirement System and making an appropriation therefore. Ought to pass with amendment. Sen. Trowbridge to Finance.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### An Act

providing additional cost of living increases for retired members of the N. H. Teachers' Retirement System, the N. H. Policemen's Retirement System, the N. H. Firemen's Retirement System, the N. H. Retirement System and the State Employees Retirement System, and making an appro-

priation therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of prefunding to be paid out of escrowed funds derived from an interest assumption change.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

**1 Supplementary Allowances for Retired Teachers.** Amend RSA 192 by inserting after section 30 the following new sections:

192:-31 **Supplementary Allowances.** Any teacher beneficiary who retired between July 1, 1957 and prior to July 1, 1961 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, have his allowance increased by eighteen percent. If the beneficiary of a retired member who retired prior to July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974 the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

192:32 **Supplementary Cost of Living Allowances.** Any

teacher beneficiary who retired between July 1, 1961 and January 1, 1968 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by eleven percent. any optional modification, had he been living on January 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

192:-32 Supplementary Cost of Living Allowances. Any teacher beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retire-

ment allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

2 Supplementary Allowance for Retired Teachers. Amend RSA 100-A by inserting after section 36 the following new subdivision:

#### Supplemental Allowances

100-A:37 Supplementary Allowance. Any teacher beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned

provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

3 Appropriation. There is hereby appropriated the sum of two hundred and sixty thousand dollars for the New Hampshire teacher's retirement system for the 1974 fiscal year and a like amount for the 1975 fiscal year to pay the state's share of the increases authorized in sections 1 and 2 of this act. The governor is authorized to draw his warrant for the sums herein appropriated from any money in the treasury not otherwise appropriated.

4 Supplementary Allowance for Retired Firemen. Amend RSA 102 by inserting after section 24 the following new sections:

102:24-a Supplementary Allowances. Any fireman beneficiary who retired prior to July 1, 1961 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eighteen percent. If the beneficiary of a retired member who retired prior to July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the differ-

ence between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

102:24-b Supplementary Cost of Living Allowances. Any fireman beneficiary who retired between July 1, 1961 and January 1, 1968 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eleven percent. If the beneficiary of a retired member who retired after July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

102:24-c Supplementary Cost of Living Allowances. Any

fireman beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

5 Supplementary Allowance for Firemen Members of Group II. Amend RSA 100-A by inserting after section 37 the following new section:

100-A:38 Supplementary Allowance for Firemen. Any fireman beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity

is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

6 Appropriation. There is hereby appropriated the sum of fifty-three thousand dollars to the New Hampshire Firemen's Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of section 4 of this act. The governor is authorized to draw his warrant for the sums herein appropriated from any money in the treasury not otherwise appropriated.

7 Appropriation. There is hereby appropriated the sum of eight thousand dollars to the N. H. Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of section 5 of this act. The governor is authorized to draw his warrant for the sums hereby appropriated from any money in the treasury not otherwise appropriated.

8 Supplementary Allowances for Retired Municipal Policemen.

I. Amend RSA 103 by inserting after section 14-b the following new sections:

103:14-c Supplementary Allowances; Municipal Police-



men. Any municipal police beneficiary who retired prior to July 1, 1961 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eighteen percent. If the beneficiary of a retired member who retired prior to July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

103:14-d Supplementary Cost of Living Allowances; Municipal Police. Any municipal police beneficiary who retired between July 1, 1961 and January 1, 1968 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eleven percent. If the beneficiary of a retired member who retired after July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased

retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary, or any other supplementary allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

103:14-e Supplementary Cost of Living Allowances; Municipal Police. Any municipal police beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then

receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

II. Amend RSA 100-A by inserting after section 38 the following new section:

100-A:39 Supplementary Allowance for Retired Municipal Police. Any municipal police beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet

the current disbursements of such additional retirement allowances.

### 9 Appropriation.

I. There is hereby appropriated the sum of twenty-six thousand dollars to the New Hampshire Policemen's Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph I of section 8 of this act.

II. There is hereby appropriated the sum of five thousand dollars to the New Hampshire Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph II of section 8 of this act.

III. The governor is authorized to draw his warrant for the sums herein appropriated from any money in the treasury not otherwise appropriated.

### 10 Supplementary Allowances for Retired State Policemen.

I. Amend RSA 103 by inserting after section 14-e the following new section:

103:14-f Supplementary Allowances; State Policemen. Any state police beneficiary who retired between January 1, 1968 and September 1, 1973, and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member who would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference be-

tween said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sums shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

II. Amend RSA 100-A by inserting after section 39 the following new section:

100-A:40 Supplementary Allowances; State Policemen. Any state police beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by

the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

### 11 Appropriation.

I. There is hereby appropriated the sum of ten thousand dollars to the N. H. Policemen's Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph I of section 10 of this act.

II. There is hereby appropriated the sum of two thousand eight hundred dollars to the N. H. Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph II of section 10 of this act.

III. The governor is authorized to draw his warrant for the sums herein appropriated out of any money in the treasury not otherwise appropriated.

### 12 Supplementary Allowances; State Employees.

I. Amend RSA 100 by inserting after section 20-e the following new section:

100:20-f Supplementary Allowances; State Employees. Any state employee beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall

be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

II. Amend RSA 100-A by inserting after section 40 the following new section:

100-A:41 Supplementary Allowance; State Employees. Any state employee beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

13 Appropriation.

I. There is hereby appropriated the sum of eighty-nine thousand dollars to the State Employees Retirement System for the 1974 fiscal year and a like amount for 1975 fiscal year for the purposes of paragraph I of section 12 of this act.

II. There is hereby appropriated the sum of fifteen thousand nine hundred dollars to the N. H. Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph II of section 12 of this act.

III. The governor is authorized to draw his warrant for the sums herein appropriated from any money in the treasury not otherwise appropriated.

#### 14 Supplementary Allowances for Municipal Employees.

I. Amend RSA 100 by inserting after section 20-f the following new sections:

100:20-g Supplementary Allowances. Any municipal employee beneficiary who retired prior to July 1, 1961 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eighteen percent. If the beneficiary of a retired member who retired prior to July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary.



The payment of the additional retirement allowances payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

100:20-h Supplementary Cost of Living Allowances. Any municipal employee beneficiary who retired between July 1, 1961 and January 1, 1968 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by eleven percent. If the beneficiary of a retired member who retired after July 1, 1961 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

100:20-i Supplementary Cost of Living Allowances. Any municipal employee beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December, 1974, have his allowance in-

creased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any one beneficiary shall be ascertained additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

II. Amend RSA 100-A by inserting after section 41 the following new section:

100-A:42 Supplementary Allowances; Municipal Employees. Any municipal employee beneficiary who retired between January 1, 1968 and September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974, and monthly thereafter but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification,

had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

#### 15 Appropriation.

I. There is hereby appropriated the sum of twenty-five thousand dollars to the State Employees Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph I of section 14 of this act.

II. There is hereby appropriated the sum of three thousand dollars to the N.H. Retirement System for the 1974 fiscal year and a like amount for the 1975 fiscal year for the purposes of paragraph II of section 14 of this act.

III. The governor is authorized to draw his warrant for the sums herein appropriated out of any money in the treasury not otherwise appropriated.

16 Supplementary Cost of Living Allowances. Any employee, policeman, fireman, or teacher beneficiary who retired prior to April 1, 1974 and who is in receipt of a retirement allowance on April 1, 1974, and who retired under the provisions of RSA 100, RSA 100-A, RSA 102, RSA 103, or RSA 192 shall, beginning with the month of April, 1974 and monthly thereafter, but not beyond the month of April, 1975, have his allowance increased by eight percent. If the beneficiary of a retired member who retired prior to April 1, 1974 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on April 1, 1974, the beneficiary shall be paid beginning with the month of April, 1974 and monthly there-

after, but not beyond the month of April, 1975, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on April 1, 1974, as the survivor annuity bears to the full allowance prior to any optional modification, by such former retired member at retirement. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

17 Appropriation. To provide funds for the payment of the supplemental allowances provided by section 16, the sum of one hundred seventy-two thousand nine hundred twenty-five dollars is hereby appropriated for fiscal year ending June 30, 1974, to be expended between April 1, 1974 and June 30, 1974 and the sum of five hundred eighteen thousand seven hundred seventy-five dollars is hereby appropriated for the fiscal year ending June 30, 1975, to be expended between July 1, 1974 and March 31, 1975. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

18 Actuarial Study of Prefunded Cost of Living Increases. The balance of funds not expended by the board of trustees of the N. H. Retirement System which result from changing the interest assumptions from five to six percent for all retirement systems and which are not otherwise appropriated by the 1974 special session of the general court shall be paid into a special fund to be maintained by the state treasurer. Such unexpended funds shall not be expended for any use other than the needs of the retirement systems; provided, however, that the income from such fund shall be used to finance a comprehensive actuarial study of the prefunding of cost of living increases for the retirement systems. The trustees of the N. H. Retirement System shall select the actuarial firm to conduct such study and said firm shall submit its findings and recommendations to said trustees and to the fiscal committee of the general court not later than December 15, 1974. All principal and interest held in such fund which is not used for such study shall be held in escrow at the highest available interest rate for use by the retirement systems as determined by said trustees.

19 Interrupted Service. Amend RSA 100-A:3 (supp) as inserted by 1967, 134:1, as amended, by inserting after paragraph V the following new paragraph:

VI. If a member ceases to be a member and withdraws his accumulated contributions, and later again becomes a member and wishes to receive prior service credit for the previous time served as a member, or if a member wishes to receive credit for the period which he was employed in a temporary capacity previous to becoming a member, he may petition the board of trustees to obtain an actuary's statement indicating the costs, providing he agrees to pay for the statement; and upon payment of the amount determined by the actuary and with approval of the board, he shall receive credit for his previous service, or the period served in a temporary capacity. Any member who wishes to receive credit for service in a temporary capacity prior to becoming a member shall pay both the member annuity savings fund share plus accumulated earnings thereon and the state annuity accumulation fund share plus accumulated earnings thereon before receiving credit for such temporary service.

20 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: SB 18 is a rather major piece of legislation and that is why I wanted it brought up now rather than at the end of the day. As you will recall, last session we passed SB 100 which gave a 4% increase to all State employees who had retired — a retirement increase. The bill was vetoed by the governor. However, we did also pass last session two bills which gave state employees and state police a 13% increase for those who retired before 1961 and a 6% increase for those who retired between 1961 and 1968. Therefore, we have established a pattern of trying to bring up our employees who have retired and to increase their benefits noting that inflation has been particularly hard on those who retired quite a while ago. Therefore, this year SB 18 was introduced which would have not only provided for a catch-up provisions for those who have already retired, but also a prefunding of all inflationary costs to those who will retire. This bill would have cost something like \$5.2 million. Obviously not having \$5.2 million, the question was what could we do for our already retired state employees. Since last session, the State Retirement Board has in fact decided that the investment of the \$170 million in the Retirement Fund is now earning

over 6% and the assumption we had been working on up to then was that the Retirement System was earning 5%. In fact, before last session, we were assuming it only earned 4%. The change from the assumption of a 5% earning to a 6% earning saves the State, in what it must put into the Retirement System, \$3.2 million over the biennium. We recognize this saving due to higher interest rates and investment rates should be reinvested in benefits for the state employees. So, it was with that premise in mind that we started on SB 18, knowing that we could not prefund all the benefits that might have to be paid later on for people who retire during inflationary times, but that we could approach the problem.

To simplify SB 18, I am having this chart handed out which shows you each section of the bill; it shows you to whom it refers; it shows you the number of employees involved; it shows you their old yearly average — what they are getting now as a pension — what their new yearly average will be; what the increase is and, I think, as we walk down through the system it is the only way I can adequately explain this bill to you.

### EXPLANATION OF SB 18

#### Section 1:

192:31

Old Teacher System	1957-1961
#780 — Total number	
\$1,300 — Old Yearly Average	
\$1,656 — New Yearly Average	
+ \$356 — Increase (18%)	

\* Social Security Benefits

192:32

Old Teacher System	1961-1968
#885 — Total Number	
\$1,465 — Old Yearly Average	
\$1,755 — New Yearly Average	
+ \$290 — Increase (11%)	

\* Social Security Benefits

192:32 (Catch-up clause)

Old Teacher System	1968-1973
#885 — Total Number	
\$1,465 — Old Yearly Average	

\$1,661 — New Yearly Average  
 + \$196 — Increase (5%)

\* Social Security Benefits

\*It should be noted that the total increase figure includes an 8% increase across the board.

## Section 2:

### 100-A:37

New Teacher System (1968-1973)  
 ±478 — Total Number  
 \$2,456 — Old Yearly Average  
 \$2,784 — New Yearly Average  
 + \$328 — Increase (5%)

\* Social Security Benefits

## Section 4:

### 102:24-a

Old Fireman System (Prior to 1961)  
 ±179 — Total Number  
 \$2,917 — Old Yearly Average  
 \$3,717 — New Yearly Average  
 + \$800 — Increase (18%)

\* Social Security Benefits

### 102:24-b

Old Fireman System (1961-1968)  
 ±179 — Total Number  
 \$2,917 — Old Yearly Average  
 \$3,415 — New Yearly Average  
 + \$578 — Increase (11%)

\*No Social Security Benefits

### 102:24-c

Old Fireman System (1968-1973)  
 ±179 — Total Number  
 \$2,917 — Old Yearly Average  
 \$3,306 — New Yearly Average  
 + \$389 — Increase (5%)

\*No Social Security Benefits

## Section 5:

### 100-A:38

New Fireman System (1968-1973)  
 ±11 — Total Number  
 \$3,381 — Old Yearly Average

\$3,914 — New Yearly Average

+ \$533 — Increase (5%)

\*No Social Security Benefits

Section 8:

103:14-c

Old Municipal Police System (Prior to 1961)

#149 — Total Number

\$1,969 — Old Yearly Average

\$2,508 — New Yearly Average

+ \$539 — Increase (18%)

\*No Social Security Benefits

Old Municipal Police System (1961-1968)

\$1,969 — Old Yearly Average

\$2,359 — New Yearly Average

+ \$390 — Increase (11%)

\*No Social Security Benefits

Old Municipal Police System (1968-1973)

\$1,969 — Old Yearly Average

\$2,232 — New Yearly Average

+ \$263 — Increase (5%)

\*No Social Security Benefits

100-A:39:

New Municipal Police System (1968-1973)

#46 — Total Number

\$3,699 — Old Yearly Average

\$4,194 — New Yearly Average

+ \$495 — Increase (5%)

\*No Social Security Benefits

Section 10:

103:14-f:

Old State Police System (1968-1973)

#149 — Total Number

\$1,969 — Old Yearly Average

\$2,232 — New Yearly Average

+ \$263 — Increase (5%)

\*No Social Security Benefits

\*N.B. See Chap. 365, Laws of 1973

100-A:40:

New State Police System (1968-1973)

#46 — Total Number

\$3,699 — Old Yearly Average



\$4,193 — New Yearly Average  
 + \$494 — Increase (5%)

\*No Social Security Benefits  
 \*See Chap. 265, Laws of 1973

## Section 12:

### 100:20-f:

Old State Employees System (1968-1973)  
 #1,042 — Total Number  
 \$1,117 — Old Yearly Average  
 \$1,265 — New Yearly Average  
 + \$148 — Increase (5%)

\*Social Security Benefits  
 \*See Chap. 365, Laws of 1973

### 100-A:41:

New State Employee System (1968-1973)  
 #345 — Total Number  
 \$2,193 — Old Yearly Average  
 \$2,486 — New Yearly Average  
 + \$293 — Increase (5%)

\*See Chap. 365, Laws of 1973  
 \*Social Security Benefits

## Section 14:

### 100:20-g:

Old Municipal Employees (Prior to 1961)  
 #1,042 — Total Number  
 \$1,117 — Old Yearly Average  
 \$1,424 — New Yearly Average  
 + \$307 — Increase (18%)

\*Social Security Benefits

(1961-1968) :

\$1,117 — Old Yearly Average  
 \$1,338 — New Yearly Average  
 + \$221 — Increase (11%)

\*Social Security Benefits

(1968-1973) :

\$1,117 — Old Yearly Average  
 \$1,265 — New Yearly Average  
 + \$148 — Increase (5%)

\*Social Security Benefits

### 100-A:42:

New Municipal Employee System (1968-1973)

#345 — Total Number  
 \$2,193 — Old Yearly Average  
 \$2,486 — New Yearly Average  
 + \$293 — Increase (5%)

\*Social Security Benefits

Section 1 — the Old Teacher System. There are 780 people there and the idea is that those people who retired between 1957 and 1961, way back, should get an 18% increase to catch up to present inflation. Actually, the cost of living in that period of time has risen 46% so that we are, in no way, catching up in terms of real catch up. You will notice as an example that they are only getting on the average \$1,300.00 from their state pension. They do have social security. The increase we will be giving them is 18% up to 1973 to catch them up and then in another section of the bill an 8% increase over the next two years for these two year's inflation. That is really old SB 100's 4% a year. So the total increase that person would get would be \$356.00. Then you work through the people from 1961 to 1968. There are 885 of them. They have a \$1,465 average pension. They are going to get an 11% catch up provision or \$290.00 increase. Now that \$290.00 does include the 8% as well. That is the total increase they will receive. Again the 1968 to 1973 teachers, the people who retired during that time, they get a 5% increase — \$196.00 and there are 885 of them — plus the 8%. As we go through these bills, you can see that the New Teachers System which came into effect in 1968 to 1973, there are 478 teachers in there and they are going to get a \$328.00 increase on the average. Now the cost for that section is \$520,000.00 for the biennium. The interesting portion here is that the State is picking up both its own share — the 40% — and the 60% normally assessed to the local district so that this is not going to affect your school district appropriation. The State is picking up the entire amount.

Then we come to the Fireman System — Section 4. Unless there are questions, I am sure you can read as well as I can and you can see that the Old Fireman who retired prior to 1961 are going to get a pretty good increase of \$800.00. But there is a mistake there. It says Social Security Benefits and there are *no* Social Security Benefits for firemen or for policemen and I point that out in this chart because that looks like a bigger hunk of money for the firemen but, in essence, since they have no social security

benefits, that is all they are getting. So you would carry forward with the Old Firemen from 1961 to 1968, they get an 11% catch up. The firemen in the old System 1968 to 1973, get a 5% increase and the New Firemen who came in 1968 to 1973 under the new system — 11 of them — they get a 5%. All of this is to catch everybody up to a common level. The cost of that is \$122,000.00 for the firemen.

Section 8 of the bill, Municipal Police. The same. We have to keep repeating all this language and that is why the bill is so long. Again you can see there are 149 Old Policemen. They will get a \$539 benefit. The total amount for the police New and Old, will be \$62,000.00.

Section 10 starts the Old State Police System. There are 149 of those and there is a little note which says “\*N.B. See Chap. 365, Laws of 1973.” You will note that the old State Police are getting only a 5% increase. That is because they were part of that bill last session which gave the 13% and 6% increase to the Old State Police so that they only need 5% in order to catch up and to equalize. That goes through the State Police and there is a total of \$25,600.00 for the Old State Police.

Then for the new State Employee System, there is a cost of \$209,800.00. The New State Employees will get a 5% increase on the same issue as the State Police in that they got their increase of 13% and 6% under Chapter 365 of the Laws of 1973.

Section 14 of the bill deals with Old Municipal Employees. This is one of the groups left out of the original SB 18 and then brought to my attention. These are city clerks, persons like that who have been city employees who are in the system and they had not been given any consideration. But we figured we were going to take the whole system and bring it all up to the same level. So we show the 18% for the older ones; the 11% for those between 1961 and 1968 and the 5% for 1968 to 1973. By the way, those figures have been agreed to by the employee groups and the cost of that is \$50,000.00. The New Municipal Employee System has a 345 total and they are getting a 5% increase. That will be only \$6,000.00 and hence we have a total of \$56,000.00

In Section 16 of the bill is the provision that takes all of these people who have been mentioned prior and gives them all

an 8% across the board going forward into the next two years. That really is old SB 100. And the appropriation for that is \$691,700.00 for the biennium.

The total figure of this bill, without anything else, is \$1,-687,100.00. That money is appropriated out of the Retirement System, that is out of the \$3.2 million saving that I talked about earlier. In order to at least approach the problem of what is going to happen next year, if we do this this year how are we going to fund similar bills next biennium we have authorized in Section 18 a study of the Retirement System and the savings here will be used to finance an actuarial study to determine whether it is cheaper for the State of New Hampshire to pre-fund the cost of living increase for retired employees or not. For instance, as salaries rise, the benefits rise so that, as long as a person is in the system, is working for the State, his retirement benefits are increasing proportionately to the increase of the salary. So, you don't have to worry about those people who are working. The problem is that once they retire, their retirement benefit becomes fixed, based on the average of the last three years that they worked. What we would have to do is pre-fund the extra amount that would be added on to the fixed retirement benefits in order to give them an automatic 5% increase after they retire. That assumes that everyone is going to retire. That assumes that no one dies. That assumes a lot of things and it could very well be that it is cheaper to do what we are doing today, namely, take the present dollars and throw them in behind you sort of figuratively to fill in the gaps behind you, rather than putting in lots of money each year on the expectation that those people who retire, let's say in 1989, are going to have to have a retirement benefit of 5% compounded all their life until they get to 1989. That is what you need an actuarial study for — to actually figure out which is the cheaper way. We have been informed that in Massachusetts and New York the legislatures are having to appropriate enormous sums of money to fund just what we are doing now — trying to bring their retired state employees up to some sort of level compatible with the cost of living. So that at least we should find out which is the cheaper way to go and then do it. Out of the remaining funds — the savings we are talking about here from the interest — we are financing that study to be brought back so that we will know which way to go in the future.

One final item in the bill — Section 19, you have seen all the retirement bills we have where people come in and want to buy back into the system. They have left for a while. We have numerous bills that come before us and this provision “Interrupted Service” would provide that anyone who comes back and provides to the system the amount he should have been putting in while he was away can automatically be received back by the Trustees without special legislation to do it. Hence, the discussion we had on Mr. Grass, I believe, who normally would be in that bill, he would qualify under Section 19 to buy back into the system automatically.

Then there is the effective date.

I think that, although it looks terrible complicated and, frankly, is a little bit complicated, it is at least comprehensive. What we have done is we have dealt with every single retired state employee on the same basis and brought them all up, not to a great level, but to dramatically bigger level than they have now, and provided for a reasonable cost of living increase to our retired state employees. I might say that HB 1, which just came over from the House, has a provision in it, a footnote saying that the interest assumption should be 5% not 6%. As I stated yesterday, there is going to be some pulling and hauling on that because if that is the interest assumption, I suppose we should not pass SB 18. However, the fund is earning over 6% and I don't know how you can make an interest assumption that it is 5%, when, in fact, it is earning 6%. I think the House is just plain wrong in that regard and I think we ought to stick to our guns. One of the things making the cost of living so high today is the cost of interest, but, in turn, it also helps the Retirement System by earning more, which we can then plug back to the people who are on retirement to help them fight the cost of inflation. So it is only logical that you would use the higher interest to offset the higher inflation costs. Vice versa, if interest rates were to plummet in a depression, presumably other prices would plummet and you would not have to have the assumption that everything is going to go up year after year. That would be one argument against pre-funding — that chances are at some point interest rates will go down and when they go down, we will have to put more into the system, but we won't have to give as many cost of living increases. So the thing should balance if the laws of economics work any more, which sometimes one

doubts. But anyhow, we at least know what we are doing. That is the bill and I will be happy to answer any questions. I urge passage of the amendment.

Sen. BRADLEY: I want to preface my question by saying I think you and your Committee have done a monumental job on this. My question is with respect to the veto situation. This is in large measure old SB 100 which was vetoed. What is the present situation with respect to a possible veto? Do you know what the Governor's stand is? Has the Governor indicated one way or the other?

Sen. TROWBRIDGE: No, he has not had any contact with me whatsoever. All I know is I think that he probably now regrets he vetoed SB 100.

Sen. POULSEN: I rise in support of both the bill and amendment and I particularly want to congratulate the Committee on the portion of the amendment that enables people who have broken their retirement to become reinstated without the necessity of having a bill passed on their behalf.

Sen. LAMONTAGNE: I also rise in support of the bill and the amendment. I would like to say this is the first time in 20 years I have been here that the Chairman of the Finance Committee has made such an excellent report. I want to thank you and your Committee for bringing this up before us.

Sen. GARDNER: I would like to compliment the Chairman and his Committee for the amount of work they have put into this. I think they have done an excellent job.

Amendment adopted.      Ordered to third reading.

### RECONSIDERATION

Sen. Trowbridge moved Reconsideration on SB 18.

Adopted.

### Second Reading

SB 18, providing additional cost of living increases for retired members of the N. H. Teachers' Retirement System, the N. H. Policemen's Retirement System, the N. H. Firemen's Retirement System, the N. H. Retirement System and the State Employees Retirement System, and making an appropriation

therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of prefunding to be paid out of escrowed funds derived from an interest assumption change.

Sen. Trowbridge offered the following amendment.

#### AMENDMENT

Amend RSA 103:14-f as inserted by section 10 of the bill by striking out in line two "between January 1, 1968 and" and inserting in place thereof the following (prior to) so said section as amended shall read as follows:

103:14-f Supplementary Allowance; State Policemen. Any state police beneficiary who retired prior to September 1, 1973, and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January, 1974 and monthly thereafter, but not beyond the month of December, 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity of January 1, 1974, the beneficiary shall be paid beginning with the month January, 1974 and monthly thereafter but not beyond the month of December, 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member who would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sums shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

Amend RSA 100:20-f as inserted by section 12 of the bill by striking out in line two "between January 1, 1968 and" and inserting in place thereof the following (prior to) so said section as amended shall read as follows:

100:20-f Supplementary Allowances; State Employees. Any state employee beneficiary who retired prior to September 1, 1973 and who is in receipt of a retirement allowance on January 1, 1974 shall, beginning with the month of January 1974, and monthly thereafter but not beyond the month of December 1974, have his allowance increased by five percent. If the beneficiary of a retired member who retired after January 1, 1968 and elected an option providing for a survivor annuity is in receipt of such survivor annuity on January 1, 1974, the beneficiary shall be paid beginning with the month of January 1974 and monthly thereafter, but not beyond the month of December 1974, an increased retirement allowance which shall be the same proportion of the increased retirement allowance the member would have been entitled to receive, if any, prior to any optional modification, had he been living on January 1, 1974, as the survivor annuity bears to the full allowance prior to optional modification by such former retired member at retirement. When the increased retirement allowance of any one beneficiary shall be ascertained under the terms of the above-mentioned provisions, the difference between said increased retirement allowance and the retirement allowance said beneficiary is then receiving as of December 31, 1973 shall be multiplied by two and the said sum shall be paid to said beneficiary in twelve monthly installments during the period from January 1, 1974 to December 31, 1974. Nothing herein shall be construed as affecting the regular retirement allowance of any beneficiary. The payment of the additional retirement allowance payable hereunder shall be contingent on the payment by the state of the additional amounts required to meet the current disbursements of such additional retirement allowances.

Sen. TROWBRIDGE: The amendment merely makes sure that state employees who were handled by Chapter 375 of the 1973 session and the state police who were given their cost of living increase get the full benefit all the way back to the 5% increase which is the underpinning. Therefore, we had to change some language but not the numbers of the bill. It



just says "anytime prior" so that it goes all the way back to 1957. This is just a technical amendment.

One other item, the reason for September of 1973 as our time for the cut off is that is when the teachers get out of school. They don't actually go on retirement until September even though they leave in June. So I urge your passage of this house-keeping bill.

Sen. LAMONTAGNE: Does that include also the municipal employees?

Sen. TROWBRIDGE: The municipal employees who are in the system are covered by all of it. This amendment only deals with a certain segment of the state police and state employees. But the municipal employees, like the City Clerk of Berlin, if he is in the system, he gets the full amount at the same rate. If he retired in 1961, he gets 18%; if he retired between 1961 and 1968, he gets 11%; 1968 to 1973, 5% and then 8% on the full rate.

Sen. LAMONTAGNE: That is why I was asking.

Amendment Adopted.

### ROLL CALL

Roll Call requested by Sen. Blaisdell. Seconded by Senator Lamontagne.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Sanborn, Provost, Brown, Bossie, Johnson, Downing, Preston and Foley.

Result: Yeas 20; Nays 0.

Ordered to third reading.

### ANNOUNCEMENT

CHAIR: The Acting Governor has submitted a message that were he sitting in his Chair as a Senator he would be voting in favor of the bill.

Sen. SANBORN: I would like to have it recorded in the *Journal* that the Senate Finance Committee deeply appreciates

the help given to them by Bill Upson and Bill Montrone in helping to bring up this bill.

## COMMITTEE REPORTS

### SB 1

providing for open and honest political campaigns in New Hampshire by requiring greater accountability and full disclosure of campaign contributions and expenditures; and protecting party loyalty by disqualifying defeated primary candidates from being nominated by petition under certain circumstances. Ought to pass with amendment. Sen. Jacobson for Executive Departments.

## AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

I Definitions. Amend RSA 70:1, as amended, by striking out said section and inserting in place thereof the following:

70:1 Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

I. "Candidate" means any person for whom votes are sought in an election and who has taken the necessary action required by the laws of this state to qualify himself for nomination or election.

II. "Contribution" means any contributions of money or anything of value from any person, political committee, political party, or others, for the purpose of influencing the nomination or election of any candidate, and given to the candidate or any committee of said candidate, or to any political committee, and shall include any

(a) advance, conveyance, deposit, distribution, transfer of funds, loan (except a personal loan contracted by and for the use of the candidate himself), payment, gift, pledge, or subscription of money, personal services, or thing of value, tangible or intangible; and

(b) purchase from a candidate or political committee, whether through the device of tickets, advertisements, or otherwise, to the extent that the purchase price exceeds the actual

cost of the goods sold or services rendered. Notwithstanding the above provisions, the word "contribution" shall not be construed to include personal services and incidental expenses provided without compensation by persons volunteering their time on behalf of a candidate or political committee.

III. "Election" means (1) any general biennial or special election and political party primary, and (2) any convention or caucus of a political party held to nominate a candidate.

IV. "Expenditure" means any expenditure of money, or anything of value, by a candidate, or a person or political committee acting under his authority, for the purpose of influencing the nomination or election of any candidate, and shall include any

(a) advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge, or subscription of money, or thing of value, tangible or intangible; and

(b) contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure.

V. "Political committee" means any organization of two or more persons, which receives contributions or makes expenditures to influence the election of any candidate or measure, including the political committee of a party as defined herein.

VI. "Political party" or "party" means any political organization or number of persons which can nominate candidates in any manner prescribed by law and has done so for the current election. The definition of the word "party" contained in RSA 56:1 shall not apply to this chapter.

2 Prohibited Political Contributions. Amend RSA 70:2, V by striking out said paragraph and inserting in place thereof the following:

V. By any person (1) if in excess of two thousand dollars in value, except for contributions made by a candidate on behalf of his own candidacy, (2) if made anonymously or under a name not that of donor, (3) if made in the guise of a loan, (4) if in any other manner concealed, (5) if made without the knowledge and written consent of the candidate or his fiscal agent, a political committee or its treasurer, or not to any one of the same.

VI. By any person if in excess of twenty-five dollars in value except by check or money order.

VII. By any person who has not been a bona fide resident of this state for one year before any election, in excess of one hundred dollars.

VIII. By any out-of-state committee except a national party committee and an official congressional campaign committee.

3 Prohibited Political Expenditures. Amend RSA 70:4, as amended, by inserting after paragraph VIII the following new paragraph:

IX. By any person, candidate, political committee, or political party except by check or money order.

4 Financial Statements; Major Candidates. Amend RSA 70:6 by striking out said section and inserting in place thereof the following:

70:6 Major Candidates.

I. Each candidate at the primary or election for governor, presidential elector, United States senator, representative in congress, delegate-at-large or district delegate to a national party convention, and the fiscal agent designated by the nominators of any candidacy in the presidential preference primary, shall file with the secretary of state fifteen days before and fifteen days after each election not later than five o'clock in the afternoon itemized statements in the manner and detail provided in RSA 70:5 of each receipt and expenditure covering the period of his candidacy or election campaign, including expenditures, contracts therefor and used contributions made by others on his behalf and with his written consent or that of his fiscal agent; excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. The statement which shall be filed fifteen days before the election by such candidate as provided in paragraph I shall also list all contributions as defined in RSA 70:1, II, received, and all expenditures, as defined in RSA 70:1, IV, made by such candidate from the date of the last general election.

III. Each statement required by this section shall be signed and certified as true and correct by the candidate required to

file it, and also by his fiscal agent, if other than the candidate himself.

5 Reports of Other Candidates. Amend RSA 70:7 (supp), as amended by striking out said section and inserting in place thereof the following:

70:7 Other Candidates.

I. Each candidate at the primary or election for councilor, state senator, county officer, or representative to the general court, and candidates for alternate delegate-at-large and alternate district delegate to a national party convention, who has expended a sum in excess of two hundred dollars, shall file with the secretary of state fifteen days after each election not later than five o'clock in the afternoon itemized statements in the manner and detail provided in RSA 70:5 of each receipt and expenditure covering the period of candidacy or election; excepting, however, the expenditures of political committees of the party to which the candidate belongs in elections other than primaries.

II. The statements of any candidate who is required to file pursuant to paragraph I shall also list all contributions as defined in RSA 70:1, II, received, and all expenditures, as defined in RSA 70:1, IV, made by such candidate from the date of the last general election.

III. Any candidate specified in paragraph I who has expended two hundred dollars or less shall file with the secretary of state fifteen days after each election not later than five o'clock in the afternoon a statement on a form prepared by the secretary of state to the effect that he has expended two hundred dollars or less during the applicable campaign period.

IV. Each statement required by this section shall be signed and certified as true and correct by the candidate required to file it, and also by his fiscal agent, if other than the candidate himself.

6 Personal Committee Reports. Amend RSA 70 by inserting after section 7 the following new section:

70:7-a Reports of Candidate Committee. Each candidate or his fiscal agent shall file with the secretary of state a report of all contributions and expenditures of a political committee

which is organized to support said candidate and which he has authorized pursuant to RSA 70:8 at the same time he is required to file campaign statements as specified in RSA 70:6 or RSA 70:7.

7 Reports of Political Committees. Amend RSA 70:8 (supp), as amended, by striking out said section and inserting in place thereof the following:

70:8 Political Committees. Except as provided in RSA 70:7-a, each other political committee at the primary or election shall, not later than the Wednesday preceding an election before five o'clock in the afternoon, file with the secretary of state a statement in the manner and detail as provided in RSA 70:5, of each receipt and expenditure and, not later than the second Friday after an election before five o'clock in the afternoon, another statement in like manner and detail of each receipt and expenditure. If the political committee is organized to support a candidate in any election, it shall first secure the written consent of the candidate or his fiscal agent before it receives or spends any money or thing of value, and its officers shall file such written consent with the secretary of state immediately; but this limitation shall not apply to the political committee of the party to which the candidate belongs in elections other than primaries.

8 Reports of Social Activities. Amend RSA 70:10 by striking out said section and inserting in place thereof the following:

70:10 Social Activities. Political committees or clubs, elected officials, candidates for public office, or persons intending to promote any candidate for office which conduct outings, dinners or social affairs shall file with the secretary of state a report of all monies received and all expenditures made in connection with such activities within ten days after such activities. Such report shall specify the recipient of any surplus over expenditures and who shall be responsible for any loss.

9 Designation of Depository. Amend RSA 70 by inserting after section 12 the following new section:

70:12-a Designation of Depository. Each candidate for any office specified in RSA 70:12 shall designate a campaign depository or depositories. Any bank located in the state may be designated as a campaign depository. The designation of any

campaign depository shall be made by the candidate's filing the name and address of such depository at the same time of his filing the name and address of his fiscal agent. The fiscal agent of the candidate may appoint deputy fiscal agents as required and may designate additional campaign depositories in each county in which the campaign is conducted. The candidate shall file the names and addresses of deputy fiscal agents and additional campaign depositories with the secretary of state at the time such agents or depositories are designated.

10 Ballot-Law Commission. Amend RSA 68:3, as amended, by inserting after paragraph III the following new paragraph:

IV. The ballot-law commission shall enforce the provisions of RSA 70 and shall examine and review all statements of contributions and expenditures of political candidates and political committees filed pursuant to RSA 70.

11 Filing Nomination Papers. Amend RSA 56:68 (supp), as amended, by striking out in line two the word "forty" and inserting in place thereof the following (seventy) so that said section as amended shall read as follows:

56:68 Filing of Nomination Papers. Nomination papers shall be filed with the secretary of state seventy days prior to the day of election for all candidates for any office. The number of days herein given shall include Sundays, and shall end on the day before election at five o'clock in the afternoon.

12 Disqualification from Dual Filing. Amend RSA 56 by inserting after section 65 the following new section:

56:65-a Dual Filing Prohibited. A person may file as a party candidate for office and may have his name printed upon the official primary ballot of a political party, or he may file as an independent candidate for office through the filing of nomination papers, but not by both.

13 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: I think it was the unanimous opinion of the Committee that they would have like to send this for further study. It was also the unanimous opinion of the Committee that they couldn't do it, given the political climate of today. Therefore, the Committee set about to amend the bill so as to take out those provisions that would be detrimental to the de-

velopment of political activity and keep in those portions that would be for the better regulation and even to extend the bill for the further regulation in other areas. If you have your original SB 1 and you have the amendment, I would invite you to follow. In that manner, the amendment will be considerably more understandable.

In Section 1, the amendment has shortened the definition from the original bill and has taken out the portion which says that an individual is a candidate from the date of election, for those who are holding political office. The Committee understood the intent of that legislation, but it believes it has found a better way to handle the problems that section was intended to cure.

In Section 1, II under "Contribution" most of what is in SB 1 is continued in the amendment. The only really important change is with respect to a loan. In the original bill, the loan became a contribution. This could mean a loan taken by the candidate himself and so an exception is entered that, if the candidate wishes to go down and borrow \$1,000.00 from the bank on his own account, that should not be considered a contribution. On the other hand, if the candidate has some friend who wants to loan him a \$1,000.00, that shall be considered a contribution.

We eliminated II (c) "cancellation of indebtedness incurred as a result of the campaign" because that would be a double contribution. If he has made the loan, it has become, in fact, a contribution.

In VI, we have substituted the original statement presently on the state statutes. The statement in original SB 1 eliminated the sentence that now appears in VI of the amendment and it is the sentence: "The definition of the word party contained in RSA 56:1 shall not apply to this chapter." That is as it presently is and the Committee found no problem with it.

Now under "Expenditures," in the original SB 1, the individual could receive a contribution of only \$1,000.00 from any person. That same person could not contribute more than \$1,000.00 to all candidates in the State. The net effect of that would be not only persons, but the Republican State Committee and the Democratic State Committee would be limited in the same way in terms of their contributions to candidates. We,



therefore, reduced the amount that can be contributed to an individual from \$5,000 to \$2,000 which means that an individual then could give a governor or a state senator or a congressman a contribution up to \$2,000.00. I noticed that President Nixon's campaign expenditure law for congressional, senatorial and national campaigns is going to be limited to \$3,000.00. Now, he and I have not been in communication, but I think it is interesting that we came to some sort of general agreement.

In the amendment, we have maintained that no contribution can be made in excess of \$25.00 in value except by check or money order.

The ones I want you to note are not part of the original bill, but have been inserted in the amendment and restrict very sharply any out of state contributions, so that people living out of state can contribute no more than \$100.00. Also any out of state committee, except the Republican National Committee and the Congressional Campaign Committee cannot exist, or contribute, or be part of any campaign.

Section 5 IX of the original bill said you could not make any expenditures in excess of \$25.00 except by check or money order. Our present state statute requires that all expenditures be listed. It was our opinion that if you were to establish depositories which comes at the end of the bill, then you would, in all probability, write all of your expenditures on checks so that any expenditure shall be made by check or money order.

We allowed a candidate to continue the present proposition of expending his own money and not imposing a limit on his own money because there already is a limit in terms of his expenditures. If you did impose a limit, it would, in effect, force him to go out and get contributions and, furthermore, it would give the incumbent candidate a distinct advantage because he already has an established base, whereas an individual starting fresh would not have that established base.

When you come to the financial statements of major candidates, the original bill required a three time reporting system. We have made it two times — 15 days before and 15 days after. We could not see that the multiplication of reporting times would necessarily make the reports any more honest. Furthermore, the Committee felt that with so many reporting periods — 3 in the Primary and 3 in the General Election — candidates

for office could accidentally stand in violation of the law because of so many reporting periods.

Now with respect to candidates other than major candidates, they will follow the State statute as it presently is, with one reporting period afterward in both the Primary and in the General Election. We did enlarge the present statute by requiring that, if an individual did not spend more than \$200.00, he would then have to file an affidavit to that effect. At the present time, if he does not spend more than \$200.00, he does not have to do anything. So that this places every candidate on record to one degree or another with regard to his expenditures.

Under II, it will require that anyone who becomes a candidate, as defined earlier, would have to report all contributions and expenditures which he has received since the last General Election. That would cover the problem that was raised about being a candidate from the beginning — those who hold office. There may be those who presently hold office who do not intend to seek reelection. Under the proposed SB 1, they would, in fact, be a candidate and would be under the problem of reporting expenditures and contributions. Anyone who becomes a candidate and begins to organize at any time after the last General Election, all those expenditures and all those contributions would become part of the expenditure and contribution report.

We have moved to bring the reports of the political committees of a candidate and his own report together so that they are filed together. The original bill said that they could have only two political committees. We felt that was a serious problem, particularly with local committees, and that the quantity or the number of committees would not necessarily be a crime. The problem is coordinating their contributions and expenditures. So we have brought the contributions and expenditures of the committee and the candidate together in one package.

The next is merely a correction so that political committees organized for other purposes than candidates have a reporting procedure. We try to deal with the problem of social activities. SB 1, as originally developed, eliminated social activities and created it under "contribution and expenditures." We have said that each of these events, such as dinners, affairs and outings, after the event shall file a report of receipts and expenditures and, if there be an overage to whom does that overage go and, if there be a loss, who is responsible for the loss, so

that we can continue to have them and, at the same time, have some control over them.

The next section is largely from the original bill dealing with the declaration of depositories. The only thing we have done in the amendment is to say that they can have a depository or depositories. They are not limited to one depository and also to provide a way in which to report any additional depository which they may designate.

Next is probably the most interesting part of the whole bill. The present statute with regard to contributions and expenditures, which is Chapter 70, has no enforcing agency. We do have a Ballot Law Commission which handles problems or recounts and validities of candidates. It seemed reasonable without writing a whole new Commission statute that we could simply enlarge their powers and give them the power of review and evaluations of expenditure and contribution reports. At the present time, under the statute, the only thing that will ever happen is if somebody complains against a candidate. This gives the Ballot Law Commission the power to review these and to check them out. This seems to me to be a way in which we can get greater purity of elections.

The other part has to do with independent candidates. The original bill said that if a man ran for United States senator, or governor, or any other office and he was defeated in the Primary, he could not file as an Independent for that office so that if he were defeated for United States senator he could, in fact, go over and file for governor if he wanted to, or any other office. It seemed to us the problem was the filing of independent candidates after the Primary and so what this bill does, it simply says if you want to run as an Independent, you file before the Primary. If you file as an Independent, you cannot then file as a party. In other words you cannot have a double filing.

An that is the amendment.

Sen. BOSSIE: You stated that if one filed as a Republican or a Democrat or Independent, their names would be listed on the ballot accordingly. Would this prevent one according to your amendment, accepting the nomination of a party as listed on the ballot after the Primary. I refer to the fact, say that in your District there are several Republicans running, no Independents and no Democrats, say you won the Republican Pri-

mary and you also won the Democratic Primary because the number of Democrats subscribed your name in the appropriate place, could you then accept the Republican side?

Sen. JACOBSON: Yes. That section of the law was not changed. Similarly, if a man receives the nomination and dies, then the Party can place a new nominee in his place. That section of the law is unchanged.

Sen. BOSSIE: You state in your amendment there will be two filing periods rather than 3 as provided by the original bill. Would you advise us if to your knowledge you are aware as to what the Congress requires in their election laws. The Congress has a reporting system as well, at certain periods. Do you know what that is?

Sen. JACOBSON: I am not sure of the dates. But that is an additional reporting responsibility on the part of all persons who run for Congress, so that makes it 3 reports that are required of every Congressional candidate. But the exact dates and procedure required by federal law, I do not know.

Sen. PORTER: I would like to commend you for your good efforts on this bill. Where you are talking about the prohibition of contributions — the limit the amount a candidate can give to himself, is there any limit on what a candidate can give himself?

Sen. JACOBSON: The only limit on what a candidate can give himself are the limitations of the expenditure law.

Sen. PORTER: Which is what?

Sen. JACOBSON: 15c per voter at the present time.

Sen. PORTER: In VII, you limit the contribution to \$100.00 unless they have been a resident for a year. Was there any rationale as to why that is put in?

Sen. JACOBSON: The rationale was to limit those out of state contributions and the one year period was simply taken as an arbitrary period, to be perfectly frank with you.

Sen. PORTER: On the Ballot Law Commission, I am not quite familiar with their present make up and whether they are full time people, or funded or anything about them. Could you give us some background?

Sen. JACOBSON: There are three members on the Ballot Law Commission, one of whom is the Attorney General or his designate and two members appointed by the Governor and Council, two of which shall be from one party and one from another party. They have the responsibilities of evaluating whether a candidate has been here seven years for a state senator and that type of thing. Their expenses and payments are left, as it were, in an elastic position because they can turn in their expenses to the Governor and Council and they approve it and the Governor and Council sets the fees or the per diems they shall receive. That is the reason I put it in there because you did not have to go through a whole structure of doing something else.

Sen. BOSSIE: May I add something further to what Senator Jacobson has just said. Senator Porter, as you may or may not know, I am a member of the Ballot Law Commission. This Commission consists of three people — Attorney Ronald Snow of Concord is the Chairman, Attorney General Rudman and myself. I might point out that I was appointed prior to the time I was elected a Senator but I still have served since that time. I might add that I have not paid. In fact, we have had only two meetings since we were elected, so I have not been paid nor do I intend to be paid. In fact, if this bill should pass, and I hope it does, I certainly would intend to resign so that a person other than an elected official would be on the Commission. I do concur with the amendment and the bill.

Sen. S. SMITH: I would like to state, as Senator Porter did, that I think you have done an excellent job. There are two questions I would like to ask. Under VIII, it says "by any out of state committee except a national party committee and an official congressional campaign committee." What effect would this have in a Presidential Primary? Would there be any effect there because many of your candidates come from out of state and much of their funds come from out of state? What effect would it have?

Sen. JACOBSON: I am glad you brought out that point. The original SB 1 included Presidential Primaries under the law. They are presently excepted from the law. My amendment continues the exception, because it is such a can of worms with that Presidential Primary and it doesn't have any urgency at this moment. I have suggested to Senator Nixon that there could

be brought in a bill to deal with Presidential Primaries as a separate issue.

Sen. S. SMITH: I realize there is no urgency, but I wanted to know what it did. As I understand it from your amendment relative to the filing as a candidate, anybody who files has to file 70 days before the General Election.

Sen. JACOBSON: No. Only those who want to file as Independent candidates must file 70 days before the General Election. They are not involved in the Primary, but the 70 days will push them before the Primary so that before the Primary takes place, everyone will know who the Independent candidates are.

Sen. S. SMITH: Can you file under this amendment as a party candidate and also as an independent candidate for the same office?

Sen. JACOBSON: No. That is directly prohibited in my amendment.

Sen. GREEN: I am also concerned about that section dealing with Independent filings. As I understood your explanation, are you saying that if a member of a party runs in a Primary and is defeated, they no longer, under the law, can file as an Independent at that time?

Sen. JACOBSON: That is correct.

Sen. SANBORN: As one of the sponsors of the original bill, I want to congratulate Senator Jacobson and his Committee for the excellent work they have done. I believe I can speak for the original sponsor of the bill who allowed me to join my name with it in saying that we feel that Senator Jacobson and his Committee actually have strengthened the original bill which we brought in. With that in mind, I urge the Senate to pass this bill.

Sen. BRADLEY: I have two questions. Under section 3 of the bill, it appears that all expenditures are prohibited other than expenditures by check or money order. Does that mean that if you are out stumping you can't buy a candy bar or lunch with cash?

Sen. JACOBSON: There is a section in here that has to do with incidentals. That would not be a reportable expense.

Sen. BRADLEY: This is a purely hypothetical question — under the section dealing with donations from out of state residents, if my mother-in-law, who is a resident of the State of Massachusetts, wanted to give me more than \$100.00 as a political contribution, she could not do so?

Sen. JACOBSON: If your mother-in-law lives out of state, I would suggest she would do that under the federal gift laws.

Sen. BRADLEY: As I said, it was a purely hypothetical question.

Amendment Adopted.

### ROLL CALL

Roll Call requested by Senator Trowbridge. Seconded by Senator Porter.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Sanborn, Provost, Brown, Bossie, Johnson, Downing, Preston and Foley.

Result: Yeas 20; Nays 0.

Ordered to Third Reading.

### COMMITTEE REPORTS

#### **SB 27**

to better protect the safety of New Hampshire citizens and law enforcement officers by authorizing capital punishment in certain circumstances, consistent with the New Hampshire constitution and decisions of the supreme court. Ought to pass with amendment. Sen. Bradley for Judiciary.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### **AN ACT**

to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 First Degree Murder. Amend RSA 630:1 (supp), as inserted by 1971, 518:1, by striking out said section and inserting in place thereof the following:

630:1 First Degree Murder.

I. A person is guilty of murder in the first degree if he:

(a) Purposely causes the death of another; or

(b) Knowingly causes the death of

(1) A law enforcement officer acting in the line of duty;

(2) Another before, after, while engaged in the commission of, or while attempting to commit rape as defined in RSA 632:1 or deviate sexual relations as defined in RSA 632:2, I;

(3) Another before, after, while engaged in the commission of, or while attempting to commit kidnapping as that offense is defined in RSA 633:1;

(4) Another before, after, while engaged in the commission of, or while attempting to commit robbery or burglary while armed with a deadly weapon, the death being caused by the use of such weapon;

(5) Another in perpetrating or attempting to perpetrate arson as defined in RSA 632:4, I, II, or III;

(6) Another for his personal pecuniary gain after having been criminally solicited to cause said death by any person;

II. For the purpose of RSA 630:1, I (a), "purposely" shall mean that the actor's conscious object is the death of another, and that his act or acts in furtherance of that object were deliberate and premeditated.

III. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail or corrections institution, or any other local, state or federal official whose duties include enforcement of the criminal law.

IV. A person convicted of a murder in the first degree shall be sentenced to life imprisonment and shall not be eligible for parole at any time.



V. As used in this section and RSA 630:2, 3, 4, and 5, the meaning of "another" does not include a foetus.

2 Second Degree Murder. Amend RSA 630 (supp), as inserted by 1971, 518:1, by inserting after section 1 the following new section:

630:1-a Second Degree Murder.

I. A person is guilty of murder in the second degree if:

(a) He knowingly causes the death of another; or

(b) He causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or in immediate flight after committing or attempting to commit any class A felony.

II. Murder in the second degree shall be punishable by imprisonment for life or for such term as the court may order.

3 Manslaughter. Amend RSA 630:2(supp), as inserted by 1971, 518:1 by striking out said section and inserting in place thereof the following:

630:2 Manslaughter.

I. A person is guilty of a class A felony when he causes the death of another:

(a) Under the influence of extreme mental or emotional disturbance caused by extreme provocation but which would otherwise constitute murder in the first or second degree; or

(b) Recklessly.

4 Bail in First Degree Murder Cases. Amend RSA 597:1 (supp), as amended, by striking out in line one the words "capital offenses" and inserting in place thereof the following (murder in the first degree) so that said section as amended shall read as follows:

597:1 When Allowed. Except for murder in the first degree when the proof is evident or the presumption is great, all persons arrested for crime shall, before conviction, be released on personal recognizance or be bailable by sufficient sureties, whichever justice may require.

5 Challenges in First Degree Murder Cases; Defendant. Amend RSA 606:3, as amended, by striking out in line two the words "an offense which may be punishable by death" and inserting in place thereof the following (murder in the first degree) so that said section as amended shall read as follows:

606:3 Challenges, Defendant. Every person arraigned and put on trial for murder in the first degree, unless he stand wilfully mute, may, in addition to challenges for cause, preemptorily challenge twenty, and in any other case the accused may so challenge three, of the jurors.

6 Challenges in First Degree Murder Cases; State. Amend RSA 606:4, as amended, by striking out said section and inserting in place thereof the following:

606:4 Challenges, State. Upon any trial for murder in the first degree, the state, in addition to challenges for cause, shall be entitled to ten, and in any other case to three, peremptory challenges.

7 Release From Life Sentence. Amend RSA 651:45-a (supp), as inserted by 1973, 370:38, by inserting in line two after the word "one" the following (convicted of murder in the first degree or one) and by inserting in line three after the word "nature" the following (and committed prior to the effective date of this section) so that said section as amended shall read as follows:

651:45-a Eligibility for Release; Life Sentence. A prisoner serving a sentence of life imprisonment, except one convicted of murder in the first degree or one convicted of murder which was psycho-sexual in nature and committed prior to the effective date of this section, may be given a like permit at any time after having served eighteen years which shall be deemed the minimum term of his sentence for the purposes of this section, minus any credits earned under the provisions of RSA 651:55-a, 55-b, and 55-c, provided it shall appear to said board to be a reasonable probability that he will remain at liberty without violating the law and will conduct himself as a good citizen.

8 Eligibility for Parole; Persons Convicted of Psycho-sexual Murder. Amend RSA 651:45-b (supp), as inserted by 1973, 370:38, by inserting in line two after the word "nature" the following (and committed prior to the effective date of this section) so that said section as amended shall read as follows:

651:45-b Eligibility for Parole; Persons Convicted of Psycho-sexual Murder. A prisoner serving a sentence of life imprisonment who has been convicted of murder which was psycho-sexual in nature and committed prior to the effective date of this section shall not be eligible for parole until he shall have served forty years minus any credits earned under the provisions of RSA 651:55-a, 55-b and 55-c and until the board shall recommend to the superior court that said prisoner should be released on parole. The superior court shall have a hearing on the recommendation of the board at which all interested parties, including the attorney general, may appear and present evidence. If it shall appear to the superior court after said hearing that there is a reasonable probability that the prisoner will remain at liberty without violating the law and will conduct himself as a good citizen, the court may order him released on parole with such conditions as it may deem just.

9 Psycho-sexual Murder Certified. Amend RSA 651:45-c (supp), as inserted by 1973, 370:38, by inserting in line two after the word "murder" the following (committed prior to the effective date of this section) so that said section as amended shall read as follows:

651:45-c Psycho-sexual Murder Certified. Whenever any person is convicted of murder, committed prior to the effective date of this section, the presiding justice shall certify, at the time of sentencing, whether or not such murder was psycho-sexual in nature.

10 Rights of Accused in First Degree Murder Cases. Amend RSA 604:1 (supp), as amended, by striking out in lines one and two the words "a felony the punishment of which may be death" and inserting in place thereof the following (murder in the first degree) so that said section as amended shall read as follows:

604:1 First Degree Murder Cases. Every person indicted for murder in the first degree shall be entitled to a copy of the indictment before he is arraigned thereon; to a list of the witnesses to be used and of the jurors returned to serve on the trial, with the place of abode of each, to be delivered to him twenty-four hours before the trial; and to process from court to compel witnesses to appear and testify at the trial. Provided, however, the justice presiding at the trial may admit the testimony of any

witness whose name and place of abode is not on the list hereinbefore provided for upon such notice to the respondent as he, the presiding justice, shall direct whenever in his discretion he deems such action will promote justice.

11 Repeal. RSA 585:1 through 6, as amended, relative to homicide and offenses against the person, are hereby repealed.

12 Sentencing for Second Degree Murder. Amend RSA 651:2, II, (d) (supp) as inserted by 1973, 370:2 by inserting in line one after the word "murder" the following (in the second degree) so that said subparagraph as amended shall read as follows:

(d) Life imprisonment for murder in the second degree,

13 Sentencing for First Degree Murder. Amend RSA 651:2 (supp) as inserted by 1971, 518:1, as amended, by inserting after paragraph II the following new paragraph:

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1, IV.

14 Effective Date. This act shall take effect upon its passage.

Sen. BRADLEY: This is the so-called capital punishment bill. The amendment is an entire rewrite of the original bill and represents a compromise bill between the Judiciary Committee and the Attorney General's Office. The Attorney General, who would like very much to have the death penalty, did indicate publicly in his testimony yesterday that he would find several areas of compromise quite acceptable to him, including the compromise reflected in this amendment, which is basically to the effect that murder in the first degree will carry with it a mandatory life sentence with no possibility of parole. The Attorney General has told me privately, as well as in a public statement, that he is happy with this amendment. That is not to say he might not be happier with another bill, but he is happy with the amendment, as is the Committee. I have reservations about this bill and I know other members of my Committee do, but this, we feel, is a reasonable compromise on this particular issue.

To go through the bill and explain it a little bit — on the first page we are redefining first degree murder for the purposes of the bill. In Section 630:1 I (a) that a person is guilty of mur-

der in the first degree if he purposely causes the death of another. That definition is no broader than, and is perhaps narrower than, the old definition of deliberate and premeditated murder as defined in the old Statute RSA 585:1. That is quite important and I spell that out in detail for the purpose of the legislative history of this amendment. The definition of first degree murder, 630:1 I (b) is an expansion of the other type of first degree murder under the old statute, RSA 585:1. Again I apologize for talking a little bit technically, but I want to get that on the record. To put it more briefly and simply, we have tried to redefine in a little more careful way a degree of murder which would warrant the most severe penalty that we would have under the law if we enacted this amendment and this bill.

To go on further you will note under section 1 of the bill that a number of different kinds of first degree murder are spelled out. For example: knowingly causing the death of a law enforcement officer acting in the line of duty. Further on, you will note that we define law enforcement officer in a rather broad way to include all sorts of law enforcement officers and including officials and employees in prison and jails.

The bill then goes on to define second degree murder which, briefly, is a less severe form of murder and which does not have the element of premeditation and deliberation or the element of it being committed in the course of something like arson, kidnapping or rape or something of that sort.

As I said, the penalty for first degree murder, as defined in this bill, would be life imprisonment, mandatory, without the possibility of parole. The penalty for second degree murder would be a life sentence or a lesser penalty, as the court ordered. This bill also defines manslaughter, which is not a controversial part of the bill, and makes that a class A felony. As a class A felony, that would have a maximum penalty of 15 years.

The rest of the bill is not particularly controversial and was not debated at any length during the lengthy hearing which we had. It covers a number of nitty gritty things — when you are involved with a charge as serious as murder. For example, you will see under section 4 the rules concerning bail, which is generally not available. Sections 5 and 6 cover the questions of challenging of the jurors and expands the number of challenges you would have available both for the defendant and the State.

Section 7 deals with the circumstances under which one might get parole or other than a life sentence for first degree murder where there is none available.

Section 8 deals with the question of parole for a person convicted of a psycho-sexual murder. That is a provision which needs to be effective for only a short time because of a change in the law which is about to take place.

Section 9 deals with that same problem.

Section 10 deals with certain rights the accused would have in a first degree murder case which most criminal defendants would not have.

Section 11 is purely the housekeeping one of repealing the present laws dealing with murder.

And Sections 12 and 13 again are just housekeeping to reflect previous parts of the bill.

As to the merits of this particular issue, the question before us is, are we willing to compromise on the issue and impose the most maximum sentence there can be other than death in cases of first degree murder, or do we insist that we will put to death people convicted of first degree murder? I suggest to you that the proponents of the death penalty have made three basic arguments. There are three reasons why they continually say that the death penalty ought to be used in this state.

The first of these reasons is that they contend that the death penalty would be a deterrent to serious crime. Now, this matter has been studied at great length over the years and, in fact, a very current, very recent study has been concluded by the United States Senate. The conclusion of those studies always has been, and is now, that there is no evidence, no creditable evidence or statistics, to show that the death penalty deters crime any more than a life sentence deters crime. And there is plenty of evidence to show in certain cases that a life sentence is just as good a deterrent as the death penalty. I suggest, therefore, that the people who claim you get greater deterrants out of the death penalty either do not know what they are talking about or are really saying something else.

The second reason which is given to justify the death penalty is that, if a person is put in jail under the present law for

murder, even in the first degree, he may receive parole and be back on the streets again and the contention is that is not right. Now, this bill meets that objection. Under this bill, a person convicted of murder in the first degree will not have the opportunity for parole. So this bill is doing just as much as the death penalty on that point.

Now the third reason, which I believe is put forward for the justification of the death penalty, is just simply that there ought to be revenge and retribution. Somehow the argument is that we need to answer the aggrieved family or we need to answer to our own notions of justice and take an eye for an eye, a tooth for a tooth and a life for a life. I do not have an answer to that one. I think I have an answer as to the question of deterrents; I think it is quite clear we have an answer to the question of parole. The only answer I can give to the revenge and retribution argument is that I simply don't feel that is an appropriate purpose for a law to carry out. I think it is wrong for the State to deal in revenge and retribution to the extent of taking a life. That is the kind of point about which you could talk to me forever and I am not going to feel any differently and I can talk to you forever and perhaps some of you would never think differently. I don't think there is any way to resolve that one. If you think revenge and retribution is a legitimate purpose to be served by the criminal law, then I guess you want the death penalty.

I really don't have anything more to say except to again emphasize that I think this bill is a very reasonable compromise between two positions. It has been carefully drafted with the assistance of the Attorney General's office and it has the unanimous support of the Committee members who came to the Executive Session and who deliberated and voted on the bill.

Sen. LAMONTAGNE: First, I would like to apologize to the Chairman of my Committee on the Judiciary because I was attempting to get an amendment I wanted and I had wanted to do it in the Committee, but it was impossible because I received the amendment after 1 o'clock. As a member of the Judiciary Committee, I definitely am in opposition to the Report that has been submitted to this Senate.

I might be from the old school and I might be old fashioned, but I believe in capital punishment. I believe a person who has

taken a life ought to be punished and punished in the same way as what he did. I can remember when I was a kid a great skier in the City of Berlin. His name was Bing Anderson and I remember when he committed a murder in Canada and I remember that he was hung. This man was working in a lumber camp in Canada and committed a murder. I can remember that *because* he was hung. Now, if this person would have received life sentence, he would have been forgotten. Also, he might have been released if the laws of Canada would have been changed like New Hampshire where they released two men who had been convicted by a jury and sentenced to be hung and were not hung. In fact, one of them is now out loose. Now, I consider that to be wrong.

So far as hanging, I asked this question when I was sitting in the Committee meeting. I asked the Attorney General what he thought about changing the hanging to either gas or the electric chair. The answer from the Attorney General was that those should be changed. The method which has been presented to you by the majority of the Judiciary Committee of the Senate is trying to change the hanging to a life sentence for a person who has committed first degree murder. This is another opportunity for the law to be changed in the future so that these people who would commit a first degree murder would not be back on the streets and possibly committing another same crime. I am asking you, and I am urging you, not to change the method of hanging to a life sentence. I am asking you to change the hanging to electric chair and I believe that these people who have committed a murder should die and I do not see anything wrong in that. If we do have a first degree murder, then they are going to be facing the electric chair and you can be sure that some of these people who have been committing these crimes will be more careful because they will know they will not be at the mercy of the General Court to be changing the law. It is possible that the proposal I am making now that in the future it could be changed, but at least if we have the law on the books now anyone who commits a murder now shall receive the electric chair. I have an amendment. I am sorry it did not have my name on it. But, believe me, I intend to have my name on it. I am not ashamed to present the amendment. If you defeat the amendment now proposed by the majority of the Committee on the Judiciary, this is what I propose to do. I would amend it by striking out the words "shall be hung by the neck" and



inserting there the words "shall be electrocuted" so that Section 1 which now reads "when penalty of death is imposed, the sentence shall be that the defendant shall be imprisoned in the state prison at Concord until the day appointed for his execution which shall be within one year of the day sentence is passed and that he shall be then electrocuted until he is dead." Now, before somebody rises and says we need an appropriation, let me tell you this. I would rather defeat the first amendment, then adopt my amendment and let's leave it go into the House and I am sure the House will be very well able to put in the very few dollars that are necessary to take care of the electric chair which is needed. Again, by having a life sentence, you can't tell me that it is not going to cost money to take care of that individual who has committed this crime. It takes guards to keep them. It takes food to feed them. And you can't very well, even though he has committed a murder, let him starve. I don't believe in leaving anyone starve. But, as far as being for capital punishment, I am 100% in favor of putting him in the electric chair and let him die for the crime he has done.

Sen. TROWBRIDGE: I can't remember the name of the doctor in Cleveland who was supposed to have killed his wife. Sam Sheppard, I am told. Do you remember the Sheppard case?

Sen. LAMONTAGNE: Yes.

Sen. TROWBRIDGE: What do you do about the Sheppard case where the man was convicted, he would have been long since hung under your bill and then it was found later on that he did not in fact, commit the crime. What do you do about that?

Sen. LAMONTAGNE: This is a matter that went to the courts. He had a jury and everything, he had time. Unfortunately, this might be one case in 10,000. That case was a sad case, I admit. But how many others cases have there been — now you mention other states — how many cases have we had throughout the nation where these people have committed murders and some of them have been getting the electric chair. But there are some who are still standing by now and have not gotten their electrocution.

Sen. TROWBRIDGE: How many of those who were hung or were electrocuted could have been in the same position as Sam Sheppard who was innocent and how do we account for that?

Sen. LAMONTAGNE: That is a pretty hard thing for me to do because I am not familiar with other state's problems. But, as far as I am concerned, I think that all of us are well aware of the problem of the Martineau case. They were convicted by a jury. There was evidence enough produced to the jury that these people were guilty and the jury sentenced them to be hung. But they were in the State Prison for a long time and cost the State of New Hampshire a lot of money in the Attorney General's office in trying to defend the State and with all the funds that have been spent, still these people were released.

Sen. S. SMITH: I rise in support of the Committee amendment. I do so as a matter of conscience, but I do so for another reason, perhaps my own personal conviction. I would like to read to the Senate Article 18 of the Constitution which deals with penalties and it states:

"Penalties to be Proportioned to Offenses; True Design of Punishment. All penalties ought to be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery, and the like, which they do to those of murder and treason. Where the same undistinguishing severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do the lightest offenses. For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate mankind.

In my view these words were written with great thought by our forefathers in this State. The times in which we live, as I indicated earlier in our discussion of this bill, are times in which passions run high. We may desire retribution from those who have committed a heinous offense. But I think it is not the State's position to ask for a person's life under these conditions. The bill, as amended makes it mandatory under first degree murder that the person so convicted will stay in prison for the rest of his life. But we do have one escape, which Senator Trowbridge referred to in the case of Sam Sheppard, with a life imprisonment rather than capital punishment and that is through the Governor and Council who are directly elected by the people and not through any parole agency which is not subject to direct control by the people of this State. It has been brought to my attention that Maine does not have capital punishment

and the reason Maine does not have capital punishment is that they once made a mistake and hung the wrong man. I think Senator Bradley indicated what I would like to re-emphasize — that no study has indicated that capital punishment is a deterrent to crime. A more practical consideration, I think, is the reaction of juries. The Attorney General stated that he believed that if this law had been in effect, or his original bill had been in effect, since his coming to office in 1970, we would have had six hangings in this state. I would doubt that statement due to the fact that we have had capital punishment for many years and that the last capital punishment was in 1939, even though since then there have been only two cases where execution was recommended. I would like you to consider for a moment that maybe the reason for this is that the people of this state who are acting as jurors don't, in their consciences, wish to go to that maximum penalty. So, what do they do? They convict the criminal of a lesser crime and then he is on the streets in a few years. So, it seems to me if we are really concerned about keeping some of these people who have committed heinous crimes off the streets and keeping them out of society, that we will not go the full route to capital punishment, but rather accept the first degree murder conviction as life imprisonment. The jury then can say, if we made a mistake, if we did, that one in 10,000 or that one in 1,000, then the person can be pardoned by the Governor and Council. I think you will get more convictions if you have life imprisonment than under capital punishment.

Finally, I would like to say that I think that the tradition of this nation, since its inception, has taught and believed greatly in the sanctity of life, whether it is the life of the poor person who was murdered or of the criminal, and I think that sanctity of life has been one of the great traditions of American society. We see around the world, as was stated in an article in one of the papers last Sunday, that because crime is increasing in Spain they are now using garroting as a form of execution. I would hope that the passions of this state will not run so high that reason does not prevail.

Sen. GARDNER: I still believe that capital punishment is a deterrent to crime. I think the reason it is not is because the sentence is never carried out so no one has a way to determine just how effective it is. I have always voted for capital punishment each time it has been presented before the Legislature.

However, I am willing to vote for the compromise presented in this amendment as I believe it is better to have something as a deterrent rather than nothing.

Sen. SANBORN: Senator Bradley, you mentioned that you did not think capital punishment was a deterrent to crime. Don't you agree that after passage of the so-called Lindbergh Law, kidnapping was practically ended until the courts became more permissive?

Sen. BRADLEY: You can cite that example, yes. I think there are statistics that indicate that in that situation the number of kidnappings did decrease after the enactment of the Lindbergh law. You can find other instances which would suggest that it had a deterrent effect, but I can cite you as many other cases where the death penalty was enacted and violent crime, including murder, seemed to increase. Or I can cite to you instances where countries that do not have the death penalty have a much lower murder rate than the countries that do have. Again, I suggest to you that you can spend a very long time analyzing all of the statistics on this issue and they will come out to be quite inconclusive. All I say is be honest with yourself and admit that if you think that the death penalty is a deterrent, you are making that judgment by the seat of the pants intuitively. You will not be able to demonstrate it by anything that any serious scholar would consider good evidence.

Sen. SANBORN: In Senator Smith's speech, which I thought was very good, he brought up one point in which I had an interest. He mentioned the fact that I believe since 1939 only twice had juries requested the death penalty. Usually they have gone to a lesser crime. Do you take any consideration of the fact that the jury select the penalty, i.e., capital punishment or life imprisonment. In other words, the jury would select. Did you take into consideration — to have both in effect?

Sen. BRADLEY: I am not sure I follow your question. But I do think it has been taken into consideration. There are such procedures that are available, yes.

Sen. S. SMITH: I am not sure I followed the question, but I think what you are saying is — could not the jury make a recommendation of capital punishment?

Sen. SANBORN: My basic question — you are partly right

— was that the jury would say capital punishment with the sentence whatever it is or life imprisonment with no parole.

Sen. S. SMITH: It was my understanding from testimony at the hearing yesterday that the Supreme Court decision which ruled against capital punishment was on this very basis — that a jury cannot and should not rule one way or the other on life or capital punishment. There was not the quality before the law in this regard. Therefore, this bill leaves no discretion to the jury. It is mandatory for both the judge and for the jury if they find conviction under this first degree murder that automatically there is capital punishment involved.

Sen. LAMONTAGNE: Senator Bradley, at the hearing yesterday when Attorney General Rudman appeared before us, did he favor capital punishment by the electric chair or the gas chamber? Let me put it another way. What did Attorney General Rudman answer to the question when I asked if he would favor making a change from hanging to other types of capital punishment?

Sen. BRADLEY: I think the answer is yes. I think it is fair to characterize the Attorney General's testimony by saying he first and foremost wanted the adoption of the death penalty; that he did feel that probably hanging was not as appropriate as other methods such as the electric chair or the gas chamber; but that he would be satisfied with a compromise bill such as this which specified a mandatory life sentence with no parole in the event of first degree murder.

Sen. LAMONTAGNE: Isn't this the reason why Attorney General Rudman accepted his compromise, because he wanted to make sure that the repeat of the Martineau case would not happen again?

Sen. BRADLEY: I think that is a large part of his thinking. I think this bill, as I suggested in my earlier remarks, will meet that goal just as well as the death penalty will.

Sen. LAMONTAGNE: Do you feel after hearing Attorney General Rudman speaking yesterday that if there was any chance at all of getting the majority of us Senators here to vote on the capital punishment today by the amendment I will propose after we have had a vote on the Committee amendment — do you feel he would favor my amendment more than the Committee's amendment?

Sen. BRADLEY: I think he was very honest in saying he would rather have the death penalty. He was also very honest — and is one of the few proponents of the death penalty who I feel is honest on the point — in not contending that it is a deterrent.

Sen. TROWBRIDGE: I brought up the Sheppard case as a mistake that was made and one of the reasons of death being the final penalty is something that disturbs me. Do you know, for instance, has there ever been a mistake made by a New Hampshire jury?

Sen. BRADLEY: Yes. And that is a very interesting question. I apologize that I cannot cite more explicitly the case, the date, and so on. But New Hampshire has not had a great number of hangings or executions. I am not sure it has been by hanging in every case. I think there were one or two exceptions. The number, I think, is only something in the order of 25 total and of those, I am told by people who are better historians than I, in one of those cases it was quite well established and accepted after the fact that, indeed, one man was innocent. So, if those are the figures, the percentage of error in New Hampshire has been something like 4%.

Amendment Adopted.

### LAY ON THE TABLE

Senator Lamontagne moved SB 27 be laid on the table.

Adopted.

### COMMITTEE REPORTS

#### SB 21

establishing a commission on children and youth. Refer to a study committee. Sen. Preston for Public Health.

Sen. PRESTON: With all due respect to the sponsor, Senator Jacobson, everyone appearing at the Committee hearing supported the concept of the bill, but questioned the structure of the bill. In the last session, this bill passed the Senate, with no testimony in opposition at committee hearings, but was killed in the House. The Committee members, in referring this to study rather reluctantly, agree that some of the questions posed were serious enough to warrant more consideration. It

was pointed out by representatives of the Division of Welfare, Youth Services Director, the Director of the Division of Mental Health and others that private and volunteer agencies such as Family Services were not included in this bill; that the duties of the Chairman of this Commission are not spelled out clearly enough and his responsibilities are not clear. It was pointed out that there might be some overlapping in the RSA and the bill did not include RSA 167, which also deals with children. The bill applies itself to RSA 169-1 which currently pertains to delinquent children. The Committee had not the time to effectively challenge or research the assertions made. We do recognize the sincere feelings of the sponsor for coordinated efforts to handle problems and programs of children. As a matter of interest, Senator Jacobson pointed out that the Finance Committee funded this program the last Session, put the monies into the operating budget and yet the bill was killed in the House. It is, therefore, with great reluctance we refer this bill to study, hopefully that the next Session of the Legislature will see this needed commission established.

CHAIR: Senator Preston, for the record would you kindly inform the Chair what committee you would propose this go to?

Sen. PRESTON: I would presume it would be the Public Health Committee.

CHAIR: If the motion carries, then that is where the measure will be referred — Public Health & Welfare.

Sen. Jacobson moved the words "Ought to Pass" be substituted for the Committee Report "Refer to a Study Committee."

Sen. JACOBSON: I reviewed the complaints about this bill, if I can call them that, and found that 99% of them are nit picking ones. One person came and said, well it creates another bureaucracy. So it does, but I don't think that is really very important. And what Chapter it is in is not really very important. I think the essential thing is that we get something on the books for children. The Health and Welfare people came in and they want more people on the Committee. That was their special complaint. There were more people on the Committee but we tried last year to reduce it down from the cumbersome 27 to 18. I still think that is too many people. It seemed to us that one person from the Welfare Department could report for all the various areas. They could take upon themselves that

responsibility. So, I don't find there is a great deal of validity in that objection. I have talked with Rep. McLane and she was part of the Commission to investigate the laws affecting children sponsored by Governor Peterson and they went through and wrote this bill. They did months and months of work only to see it go down the drain because of some emotional unconnected, unrelated objections in the House the last time. I think we ought to get something on the books. If it doesn't work we can amend it. I think children are worth as much as horses and dogs.

Sen. FOLEY: Is there any money connected with this bill?

Sen. JACOBSON: The money is already in the budget.

Adopted.      Ordered to Third Reading.

## **SB 28**

to establish standards of care and treatment of alcoholics, intoxicated persons, and drug dependent people. Without recommendation. Senator McLaughlin for Public Health.

Sen. GARDNER moved the words "Ought to Pass" be substituted for the Committee Report "Without Recommendation."

Sen. GARDNER: Alcohol dependence is, without question, the most serious drug problem in this country today and alcohol users far outnumber those of all other drugs. I think this bill is an important one for the following reasons.

This SB 28 defines the term "alcoholic" as a person who is incapacitated by alcohol and an intoxicated person. It establishes a program on alcohol and drug abuse and specifies its powers and duties. It establishes an Advisory Council on Alcoholism and requires the establishment of a program for the treatment of intoxicated persons and alcoholics. The program must include "adequate and appropriate" emergency, in-patient, intermediate, out-patient and follow up treatment. It authorizes the program to establish rules and regulations for its treatment program, guided by priorities for voluntary rather than involuntary treatment, and out-patient rather than in-patient treatment. It mandates the preparation and maintenance of individualized patient treatment plans, the provisions of a continuation of coordinated treatment services. It establishes the patient's rights to be admitted for treatment even if he has



previously withdrawn against medical advice or has relapsed repeatedly. It provides for voluntary treatment of alcoholics or those incapacitated by alcohol so that they may be assisted to their homes or to treatment facilities by police in protective custody under civil law. It limits detention of an incapacitated person for emergency medical care to 48 hours unless committed; provides for civil commitment for emergency medical care for up to 5 days, or civil commitment of dangerous or incapacitated persons for up to 7 months. This bill also protects the confidentiality of patient's records, provides for visitation and communications, and deals with reimbursal services to patients.

Because of time needed, sections 1, 12 and 13 dealing with standards for facilities, voluntary treatment, treatment of intoxicated and incapacitated persons shall take effect on July 1, 1974. Section 20, dealing with criminal law limitations, shall take effect on July 1, 1975. All other provisions of this bill shall take effect upon its passage.

I think this bill is very important because it will allow us to start and construct centers for the treatment of alcoholics in different sections of the State. It will also allow us to receive about \$120,000.00 in federal funds, so that we may better treat alcoholics in this State. I hope that you vote for the bill.

There is no state money whatsoever connected with the bill.

Sen. TROWBRIDGE: In the bill, which I have not studied I must admit, what are the provisions for committing a person to an institution? The reason I ask, to give you an example: when I once practiced law a long time ago, I found out how incredibly easy it was to have a person committed for alcoholism and this person, once he got in could not get out for 21 days and it turned out that was a bum rap. I would like to know before I vote on this bill whether there is a safeguard so that a person who is committed cannot be involuntarily committed without his consent or at least have some recourse to get out.

Sen. GARDNER: If he is committed, he will have a chance, if he wants to be discharged, he may seek to be discharged by a writ of habeas corpus. But he has to be committed with the consent of a member of the family, a guardian or by doctors.

Sen. TROWBRIDGE: But what if he does not consent?

Sen. GARDNER: I think there is a provision in there where he can be committed by a court order.

Sen. FOLEY: I am very much in favor of this bill. The entire Rockingham County Delegation has gone on record in favor of this bill. The new section of the Rockingham County Hospital has included a whole new unit in anticipation of the passage of this bill and it is required so that they can apply for federal funds. I urge you to pass it.

Sen. SANBORN: I was at the hearing this morning on this bill. Everybody who appeared, appeared in favor and, as Senator Gardner stated, the federal government will make available the sum of \$120,000.00 a year for at least the next three years to support this program. One of the things that was pointed out at the hearing this morning was that, as you know we adopted the new Criminal Code which made no provision, as we used to have in the old days, for the common drunk who in the fall of the year would get picked up and taken to a county farm, dried out, and he was fed, clothed and kept warm for the winter. As it is now under the Criminal Code, this man is picked up, fined and then put back out on the streets to freeze to death in some alley. Under the provisions of Senator Gardner's bill, these people would be taken care of. In addition, it was pointed out by several alcoholics who attended the hearing this morning there is nothing in the State of New Hampshire at this time that provides for the rehabilitation of these people. Two who were there made mention of the fact that they were considered lucky because they were veterans and they were able, through the Veterans Administration, to be sent down to Massachusetts to a rehabilitation center under the GI bill. This did take care of them. But nothing in New Hampshire is provided for this rehabilitation of the alcoholic. This bill will cover that type of people and hopefully rehabilitate many of them. We hope you will support this bill.

Sen. TROWBRIDGE: I am totally in favor of treating the alcoholic. I am going to vote against this bill reluctantly for two reasons. One, the bill has come to us today — 28 pages long. It has in it a great deal to do with a person's civil rights in being put away. For instance on page 14 of the bill — this is the first time I have looked at it — a person who appears to be incapacitated by alcohol — he could have a cold tablet or could have anything else — may be taken into protective custody by the

police forthwith and kept for 48 hours. A person who *appears*, that is the language.

Secondly, in my District I have two of the finest alcoholic rehabilitation centers in the country. They are private facilities but they do take in people from the public as well. I understand Senator Gardner to say there are certain standards for the physical trappings of all alcoholic centers. I have not had a chance to see them to know whether Beech Hill Farm, which is really a very excellent place, would qualify or not. I would like to be able to vote for the bill saying, yes they did qualify, but how do I know? I just must say — and it is no fault of Senator Gardner — I am going to have to vote against this bill now knowing what is lurking in it.

This one question I asked before when I saw what happened to maybe only one person but it was the only time I ever had occasion to be involved with it where a wife wanted to put her husband away, came and got a lawyer, got a physician, they did not know whether the person was an alcoholic or not because you can't tell whether a person is an alcoholic or not, and she made all sorts of statements and the poor fellow was put into this perfectly good center but he was four months getting out and it turned out he was no more of a drunk than anybody in this room. I saw that poor man struggling to get out, having been committed, and I can tell you it is not easy because he is at a disadvantage the whole way. So I think before you take some measure like this and allow a policeman in this State to come up and say you appear to be incapacitated by alcohol and on that basis — there is no blood test, there is no breathalyzer — you go right in and you are off for 48 hours. I think the intention of the bill is fine: I know what Senator Gardner is trying to do and I applaud it. But I wonder whether a bill which comes before us with one day, 28 pages, dealing with civil rights in this state should be passed in this fashion. I am sorry that it has to go this way.

Sen. GARDNER: Did you know this is the same bill that was in the House last year — HB 425 — and it came within 3 votes of passing the House?

Sen. TROWBRIDGE: I never saw it. I am talking mainly as a legislator not whether it is right or wrong. I am saying, at this point, I cannot say whether it is good or bad.

Sen. PORTER: I rise in support of the bill and urge my fellow senators to vote in favor. I share Senator Trowbridge's concern for some of the aspects of the bill and I hope note of these short comings are being made so that they can be looked into when the hearing is held in the House. I think we in the State of New Hampshire derive a great segment of our income to operate this State from the sale of alcohol, and we ought to also be ready, willing and able to not only accept federal funds to take care of these people, but also be ready, willing and able to suport it with additional State money. We are going to have one coming in to help on the other end. I urge my fellow senators to support the bill.

Adopted.      Ordered to Third Reading.

## **SJR 2**

establishing an interim committee to study oil companies and other energy suppliers. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: The Public Works Committee heard this in abbreviated form. The two sponsors of the bill were there. The bill sets up an Interim Committee to study the operations of the oil companies, particularly as regards pricing and credit cards and such. The biggest thrust of the bill is that it gives that Committee subpoena powers, not particularly to be used to pull in the President of Exxon or anyone but to pull in people at the state level — district managers and such — so that they can get to the bottom of the problems on pricing. The Committee recommends passage of the bill. There is no appropriation.

Adopted.      Ordered to Third Reading.

## **SB 13**

establishing a combined horse and dog racing commission. Refer to Interim Study Committee. Sen. Downing for Ways & Means.

Sen. DOWNING: SB 13, sponsored by Sen. Spanos, would have taken the current horse Racing Commission and the Dog Racing Commission and blended them into a single agency. There was no support for this concept at the public hearing which was conducted except by the sponsor. There were several suggestions, both from horse racing interests and greyhound racing interests, that the matter be studied and possibly create

a gambling commission for the State. Nobody could agree that we were ready for it yet but that it should be looked into. It was also suggested that a study of the possibility of including the Sweepstakes in a Gambling Commission for the State should be considered. As a result, the Ways & Means Committee felt the matter should be studied and would like to have this referred to them for interim study and to explore the establishment of one Gambling Commission for the State of New Hampshire. I urge your support for the Committee Report.

Adopted. Referred to Committee on Ways & Means and Administrative Affairs for interim study.

**SB 29**

exempting enterprises selling spirits and wines to the state of New Hampshire from the business profits tax. Without recommendation. Sen. Downing for Ways & Means.

Sen. Downing moved the words "Ought to Pass" be substituted for the Committee Report "Without Recommendation."

Sen. DOWNING: The way it exists right now, the State Liquor Commission buys from manufacturers all over the country and they have a warehouse agreement with a private enterprise that this liquor will come into that warehouse and, as they need it, it will be available immediately for them to resupply the stores. A question has come up within the Commissioner of Revenue's office as to whether this does not constitute another business within the State and should the liquor industries be paying a business profits tax. The Liquor Commission feels very strongly that it would not be fair and would only increase the cost to them and be reflected in increased costs to the consumer and would certainly have an adverse effect on the competitive edge that New Hampshire enjoys now. The private warehousing facilities that are used do pay a business profits tax on the amount of money they receive as a private business enterprise. This is a convenience to the State and the Committee feels they should not be subject to taxation and this bill would clarify that legally.

Sen. TROWBRIDGE: I would like to understand here if National Distillers does business with the State of New Hampshire, do they now pay no business profits tax on the operations in New Hampshire?

Sen. DOWNING: If they have an operation in New Hampshire, then they pay a business profits tax. But, if we are buying a product from outside the State of New Hampshire, bringing it in here to be warehoused in a privately owned warehouse for our convenience and then ordering it out of there, they are not paying a business profits tax on what we order out of there.

Sen. TROWBRIDGE: What is the difference then between that and Sears, Roebuck which would bring in a lawnmower, store it in a warehouse and then sell it to a New Hampshire consumer? Sears, Roebuck pays a business profits tax on that portion of the business it does within the State of New Hampshire. What is the difference between National Distillers and Sears, Roebuck?

Sen. DOWNING: The number one difference is the fact that Sears, Roebuck is a private enterprise concern and here this is the State that is doing the reselling.

Sen. TROWBRIDGE: But National Distillers is then selling to the State, is it not? It is making a sale within the State of New Hampshire. There is no particular difference. It happens the end product happens to be the State. What happens if Sears, Roebuck sells to the Highway Department? Would not that be an identical position — a sale to the State?

Sen. DOWNING: I think it is two different areas of concern. If a store ordered directly from a distillery outside of the State and ordered merchandise in, would that company pay a business profits tax? No, it would not. If it has an established company here, yes I guess it would. Sears, Roebuck has a store here. They pay a tax based on the operation of that store. This distiller does not have an operation here. The Liquor Commission has arranged for a private warehousing set up — like a baler system, I guess that is what it is called — where they can order as much as they want and it stops here temporarily before they rehandle it. Meanwhile, they are not tying up State funds in this inventory until they are actually moving it into their warehouse and into their stores.

Sen. TROWBRIDGE: If Caterpillar Tractor or some company has no office here but has a salesman in New Hampshire that sells to the State, they are subject to the business profits tax, are they not — having a presence in the State?

Sen. DOWNING: I do not believe so. I think a salesman can come into this State representing an industry outside the State and do business in the State and not pay a business profits tax.

Sen. TROWBRIDGE: Are you sure of that?

Sen. DOWNING: I believe it.

Sen. TROWBRIDGE: Isn't it really true that what we are saying is that this is liquor and nothing else; that this is a privilege for the liquor interests and not because they have salesmen in the State?

Sen. DOWNING: It certainly is a consideration for the liquor industry and the Liquor Commission and the consumers of the liquor customers in the State.

Sen. TROWBRIDGE: How much business profits tax since they sell \$100 million of liquor products here a year? How much business profits tax would we obtain if all the sales of liquor in the State were taxed?

Sen. DOWNING: I don't know that. But I know whatever it would be would ultimately be paid by the consumer.

Sen. TROWBRIDGE: It is not true that these prices at which they sell wholesale are the same whether they sell to New York, Pennsylvania or any other wholesaler and that they already assume some sort of cost of doing business in the form of a business profits tax?

Sen. DOWNING: I did not realize that to be true, if it is.

Sen. LAMONTAGNE: I was at the hearing when the Liquor Commission was there. If this warehouse and the business profits tax was to be charged, it would be included in an increase in cost of the liquor. At the same time, this is a warehouse where it is merchandise for New Hampshire. This product actually is New Hampshire's product but it is put there and it is not paid for until it is delivered into the warehouse of the State of New Hampshire. This is a lot of merchandise that is being put into the State which I consider to be a safety factor for the Liquor Commission in order to be able to have stock ahead and to make it a lot easier to get it from a warehouse in New Hampshire than for them to wait and get it from the factory. If this liquor were delivered from the factory to the ware-

house, there would be no profits tax to be paid. Therefore, the only thing is that this liquor is in the warehouse as a protection and it is for us and, at the same time, if we do not exempt them, it means that our liquor prices will have to go up.

Sen. TROWBRIDGE: I am going on record as wondering whether or not we are making a special provision here for someone. There are companies who sell liquor to the State who do not have a warehouse — there are those who do — but the Business Profits Tax Administrator, Mr. Blake, is undoubtedly correct in saying that these people are doing business in the State and should pay a business profits tax. We should recognize that we are amending the Business Profits Tax Statute for one company, or one product, and there may be a number of other instances of people who will come and say, look I want a warehouse here for salt for the Highway Department or other areas in which we will have established a precedent of saying it is O. K. just because you are selling to the State. If it were not worthwhile for National Distillers to have a warehouse in the State because they will make more sales to the Liquor Commission, they would not do it. Therefore, what you are saying is, you come in and get a competitive advantage over those who do not have a warehouse in the State and still not pay a business profits tax. This is my worry and I think it has to be addressed in that light and I think we have to be very sure of what we are doing.

Sen. DOWNING: First of all, I would like to clarify one thing which probably I was remiss in not doing sooner. Commissioner Price is not certain that it should be taxed. He has asked the question — put the question before the Attorney General. It really isn't a clear cut case of whether they should not be taxed, they should be taxed, or that they have been taxed to date. It is just that the Commissioner has looked at it now and said, I think there is a basis for taxation there. The Liquor Commission has taken the position there is not basis for taxation. This is a convenience to them and solely at their request is it warehoused in this manner. The Attorney General has not handed down a decision yet. In the event that he did not hand down a decision prior to our leaving here, then it would have to wait and depending on what his decision was we would have to wait until the next regular session to straighten it out. I don't think we can be compared with any other type of a busi-



ness. I think it is a monopoly. The State owns it and the State is trying to compete with other states and they are trying to make the best possible deal they can. They want all the tax to go as state revenue. That is their business, to tax the sale of this thing. They think they tax it to the limit to maintain a competitive position we enjoy and the income we enjoy from the sale of liquor. I appreciate some of the Senator's concerns, but I really don't share them to the extent he would probably like me to. I think the bill is a good bill and it ought to pass and I don't think it is discriminatory in any way, shape or manner any more than our State being in the liquor business having a monopoly which is discriminatory against private enterprise.

Sen. LAMONTAGNE: Actually if we would have had more days, I am sure the Liquor Commission would not have come in with this bill today and neither would our Committee. But as has been said by the Chairman of our Committee, the Liquor Commission was facing this emergency and this emergency is pending in the Attorney General's office for a ruling. Being the last day is the reason why this is here. The Liquor Commission is asking for this to be passed today in case the Attorney General would rule in favor of the business profits tax. This bill would straighten it out. At the same time, it certainly would not increase the price of liquor.

Adopted.      Ordered to Third Reading.

## **SB 2**

to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances. Ought to pass. Sen. Downing for Ways & Means.

Sen. DOWNING: SB 2 is going to require considerable deliberation because of amendments which will be offered. I will try to be as brief as possible.

Basically the concept is the same as SB 2 which we approved during the last regular session of the Legislature and which was vetoed by the Governor. There have been some minor changes. The exemption age has been dropped from 70 to 65 as we did when we originally passed SB 2. There is now a graduated exemption which was not in SB 2 before. However the maximum exemption now at age 80 is \$20,000.00 where before at age 80

there were to be no taxes whatsoever. There has been a lot of discussion pro and con as to whether it is more expensive or less expensive, and this type of thing but it just goes around and around and nobody really has any concrete basis as to how it is going to be. Everything is an estimate and when you get into it you find out how loose an estimate it is.

This is the vehicle which we had agreed that Senator Jacobson would put this amendment on rather than put in an additional bill. He had some technical amendments to the Homestead Act which appear to be very worthwhile amendments which should be made. Senator Johnson offered an amendment to the Committee that would fund this bill. Senator Nixon offered an amendment to the bill before the Committee for those communities that have adopted the Homestead Exemption Act — in those communities, there seems to be a matter distressing some folks who do not qualify for the elderly exemption because when you adopt the Homestead Act, you negate the elderly exemption. He offered an amendment to the Committee that would make an individual eligible for both the exemptions — they would have both the elderly exemption and the Homestead exemption. The Committee decided not to add any of these amendments to the bill, report the bill ought to pass as it was printed and to suggest to those offering amendments that they offer the amendments on the floor here. Senator Nixon is not able to be on the floor. I discussed with him offering his amendment to the bill. He left it up to me and I have decided I will not offer that amendment at this time. He can offer it in the House if the bill gets there. So, SB 2 as we knew it increasing or updating the elderly exemption is embodied in SB 2 as you have it and of the other two matters the funding will be discussed by an amendment to be offered by Senator Johnson and the updating of the technicalities of the Homestead Act will be offered by Senator Jacobson.

Adopted.

Senator Jacobson moved adoption of the following amendment:

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

## An Act

to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and making certain revisions in the homeowners' exemption law.

Amend the bill by striking out section 7 and inserting in place thereof the following:

7 Adoption of Homeowners' Exemption. Amend RSA 72:44, I (supp) as inserted by 1973, 482:2 by striking out said paragraph and inserting in place thereof the following:

I. A town desiring to adopt the provisions of this subdivision may have the question placed on the warrant for an annual or special town meeting by action of the selectmen or by petition as provided in RSA 39:3. Such question shall be presented for voter approval on a separate ballot and shall be worded as follows:

"Shall the town adopt the homeowners' exemption provisions of RSA 72 granting a \$5000 exemption based on equalized assessed valuation in all owner-occupied units, or a \$10,000 exemption based on equalized assessed valuation on all owner-occupied units by persons over sixty-five years of age, provided that the valuation of such owner-occupied units does not fall below \$8000 after the granting of any such exemption?"

Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand of the question; and the voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

8 Reference Correction. Amend RSA 72:44, II (supp) as inserted by 1973, 482:2 by striking out in line seven the letter "(c)" so that said paragraph as amended shall read as follows:

II. A city desiring to adopt the provisions of this subdivision may have the question placed on the official ballot for any regular municipal election for the election of city officers upon a vote of the city council or upon submission of a petition signed by five percent of the registered voters of the city to the

city council. Such questions shall be placed on the official ballot by the city clerk with the wording and in the form provided for in paragraph I.

9 Exemption Qualifications. Amend RSA 72:45 (supp), as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:45 Owner-Residents Exempted. Every person who has the legal or beneficial title in equity to real property including a mobile home in this state and who resides thereon and in good faith makes the same his permanent home, or the permanent home of another or others legally or naturally dependent upon said person, shall be entitled to an exemption of five thousand dollars of equalized assessed valuation as determined by the department of revenue administration from all taxation except for special assessments on said home up to an assessed valuation determined by the department of revenue administration; provided, however, that in no case shall the remaining equalized assessed valuation be less than eight thousand dollars on any homestead. Said title may be held solely, jointly or in common with others and said exemption may be apportioned among such of the owners as shall reside thereon as their respective interests shall appear. The exemption provided herein shall be allowed on each condominium parcel occupied by its owner and on any other entity recognized at law as realty and occupied by its owner.

10 Exemption Computation. Amend RSA 72:46 (supp) as inserted by 1973, 482:2 by striking out in line nine the words "tax commission" and inserting in place thereof the following (department of revenue administration) so that said section as amended shall read as follows:

72:46 Computation of Exemption. Owner-resident real estate, as defined in RSA 72:45, occupied by qualified owners under sixty-five years of age, to the assessed valuation of five thousand dollars and occupied by qualified owners sixty-five years of age and over to the assessed valuation of ten thousand dollars shall be exempt from taxation; provided, however, if property within the town or city is not assessed at its full and true market value, the amount of the valuation exempted will be that portion of five thousand dollars or ten thousand dollars that the level of assessment as found by the department of revenue administration bears to one hundred percent.

11 Definition of Residence. Amend RSA 72:48 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:48 Definitions. For the purposes of this subdivision, the term "owner-occupied unit" or "residence" shall mean that dwelling place which a taxpayer claiming a homeowners' exemption occupies in good faith and in such a manner that he regards such dwelling place for which the exemption is claimed as his domicile, to the exclusion of all other places where he may temporarily reside from time to time. An owner-occupied unit, temporarily held in estate or in trust, but otherwise qualified for exemption may, on action of the selectmen or assessors, qualify for such exemption. In those instances in which the owner of a home, otherwise qualified, utilizes some portion of the home for business or commercial purposes, the selectmen or assessors may apportion the exemption in a suitable manner.

12 Form of Exemption. Amend RSA 72:50 (supp) as inserted by 1973, 482:2 by striking out the introductory paragraph and inserting in place thereof the following:

The department of revenue administration shall furnish to the assessors of each town a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to said exemption. Said forms shall be substantially as follows:

13 Filing Date. Amend RSA 72:51 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:51 Taxpayer Claims.

I. Each taxpayer who claims said exemption shall file on one of said forms, properly completed, with the local assessor on or before April fifteenth of each year. Provided, however, that any person entitled to a homeowners' exemption who by reason of active military service or incapacitating illness is unable to complete a form, may file such form through or by his next of kin or through any other person he may duly authorize in writing to file such claim.

II. During the first year in which the provisions of this subdivision shall be effective in any town or city, application forms shall be filed with the local assessor on or before June first of such year.

14 Notice Requirement. Amend RSA 72:52 (supp) as inserted by 1973, 482:2 by striking out the introductory paragraph and inserting in place thereof the following:

As soon as practicable after February first, and twice more before February twenty-eighth, local assessors shall publish in newspapers of general circulation in that locality a notice reading substantially as follows, except that in the first year in which the provisions of this subdivision shall be effective in any town or city, such notice shall be published on March fifteenth and twice more before May first, and the filing date for applications in such notice shall be June first:

15 Duty of Assessors. Amend RSA 72:55 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:55 Duty of Selectmen or Assessors. The selectmen or assessors shall examine each claim for exemption filed with them and shall approve the exemption if the requirements of this chapter have been met. In the event a claim is disallowed, the selectmen or the assessors shall notify the claimant in writing immediately but in no event later than May fifteenth of the taxable year in question; provided, however, that in the first year in which the provisions of this subdivision shall be effective, notice to the claimant shall be made not later than July first of the taxable year.

16 Hearing. Amend RSA 72:56 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:56 Hearing. Whenever the selectmen or assessors refuse to allow an exemption and the claimant has been so notified, the claimant may, on or before June fifteenth, notify the selectmen or assessors in writing of his request for reconsideration, except that in the first year in which this subdivision shall be effective, such claimant shall notify the selectmen or assessors in writing by August first. Upon receipt of such request, the selectmen or assessors shall set a hearing date for said claimant and notify him in writing of said date; provided, however, that said hearing must be scheduled for a date within thirty days of the selectmen's receipt of the claimant's request. At said hearing before the selectmen or assessors, the claimant may present such evidence as he can adduce to establish his right to an exemp-

tion. The selectmen or assessors shall reevaluate the claim and shall notify the claimant of their decision within five days after the hearing. A claimant aggrieved by an adverse decision after hearing shall have the right to appeal to the board of taxation within ten days of the date of such adverse decision. Said board may order an exemption or an abatement if a tax has been assessed.

17 Appeal from Board. Amend RSA 72:57 (supp) as inserted by 1973, 482:2 by striking out in line two the words "tax commission" and inserting in place thereof the following (board of taxation) so that said section as amended shall read as follows:

72:57 Further Hearing; Appeal. Claimants aggrieved by a decision of the board of taxation may request a rehearing or institute an appeal according to the provisions of RSA 541.

18 Procedure for Hearings. Amend RSA 72:58 (supp) as inserted by 1973, 482:2 by striking out in line one the words "tax commission" and inserting in place thereof the following (board of taxation) so that said section as amended shall read as follows:

72:58 Hearing Procedure. The board of taxation and selectmen or assessors shall determine their own rules and procedures for hearings; provided, however, that the hearings shall be open to the public, informal, with citizens having the right to appear personally or with counsel. Counsel may represent an aggrieved person or any interested party in his absence.

19 False Application. Amend RSA 72:59 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:59 Penalty for False Application. If an applicant for a homeowners' exemption wilfully misrepresents himself as eligible for a homeowners' exemption, or as being over age sixty-five or who wilfully applies for more than one homeowners' exemption at any time in New Hampshire, he may not be granted an exemption on any property within the state for a period of ten years. Enforcement of this provision shall be under the authority of the board of taxation. Any municipality or individual citizen bringing allegation against any applicant may go to the board of taxation, which shall then investigate said allegation.

If the board finds against the applicant, an appeal may be had in accordance with RSA 541.

20 Public Hearing Required. Amend RSA 72:44 (supp) as inserted by 1973, 482:2, by inserting after paragraph III the following new paragraph:

IV. Prior to any town meeting or city election at which the question of whether or not to adopt the provisions of this subdivision shall be voted upon, the selectmen or city council shall hold two public hearings at least one week apart on said question. The last of such hearings shall be held not later than one week prior to the meeting or election at which the question shall be voted upon. Notice of such hearings shall be placed in a newspaper of general circulation in such city or town not later than one week prior to the date of said hearings.

21 Applicability. Any city or town which shall have adopted the provisions of RSA 72:44-60 relative to the homeowners' exemption prior to the effective date of this act shall be deemed to have adopted such provisions as amended by sections 7 through 20 of this act, provided, however, that the validity of the adoption of the homeowners' exemption in such city or town shall not be affected by any added requirements imposed pursuant to the provisions of sections 7 through 20 of this act.

22 Effective Date. This act shall take effect April 1, 1974.

Sen. JACOBSON: This amendment grew out of my experience of studying the Homestead Act as a Selectman. The first change simply makes it perfectly clear that the selectman can place the issue on the warrant. The statutes relating to the powers of selectmen say that the warrant belongs to the selectmen — it is their warrant. Therefore, the correction simply makes it clear that they can, as in any other instance, place what they want in the warrant.

The second change is that the question that was asked was an improper question because first it said that it would grant a \$5,000.00 exemption *and* a \$10,000.00 which could be interpreted to mean a \$15,000.00 exemption. So the word "or" is in there instead of "and" plus the statement completes what, in fact, is the Homestead Act — that there is at the present time an \$8,000.00 ceiling. That was not in the question and many people thought you got a \$5,000.00 exemption. If your house



was worth only \$5,000.00, you paid no taxes, which was not true according to the law.

Then there are a number of these that were asked for by the Department of Revenue Administration which are in here and which simply change the old word "Tax Commission" to either "Board of Taxation" or "Department of Revenue Administration" since there is no longer any Tax Commission.

The next change is to make clear that they can only have the place exempted if, in fact, it is their domicile. We have a problem in New Hampshire where people come and become residents and get on the checklist but spend their living time principally in Massachusetts, Connecticut, New Jersey or Florida. What this amendment does — it clearly specifies it must be their domicile to the exclusion of all other places where they may temporarily reside from time to time.

Another problem has arisen where a man or his wife dies and the estate goes into a different holding temporarily. These people have continued to live in the home and it is their home and, once the estate is settled, it becomes their home again so that these people under the present statute would be excluded from qualifying for the exemption. This clears up that matter with respect to them.

Also, in many towns in New Hampshire, a man has a shop in his home and he also has his residence there. This allows the selectmen to apportion that part which they consider his residence so as to give him that exemption.

The remainder of these are only with respect to the first year. Let me give you an illustration. At the present time, the statute says that a notice must be given some time beginning in February and no later than February 28 of the year in which it begins. However, it is impossible for a town to adopt it until March — March 5 this year — and those towns which adopted it could not conform with the law. Then there is a whole back-up with regard to filing the application and conducting the hearings and the appeals to the hearings. So on the first year, all of these are pushed forward so that they could, in fact, be accomplished. Otherwise, it would be impossible for the selectmen to adequately and judiciously administer the Homestead Exemption Act if it were adopted by the town meeting such as last Tuesday.

That essentially is what the amendment does. Representative Splaine of Portsmouth, the original sponsor, has looked it over and he agrees 100% with all of the amendments.

Sen. DOWNING: I rise in support of the amendment. I would like to say one of the reasons it was not put forth by the Committee is that it was prepared in its final form only yesterday and the Committee did not have time to get the report in properly today and, at the same time, evaluate that amendment. I am aware of Mr. Splaine's feelings on it. I have read the amendment myself and I feel it is a needed updating in the statutory area and I hope the Senate will approve.

Amendment Adopted.

Sen. Johnson moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

##### An Act

to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor.

Amend the bill by striking out all after section 6 and inserting in place thereof the following:

7 Exemption Compensation for Municipalities. Amend RSA 72 by inserting after section 42 the following new section:

72:42-a Compensation for Exemption. To compensate cities and towns for the loss of taxable valuation under RSA 72:39, a payment as determined in this section shall be made to such cities and towns by the state treasurer as soon as possible after the total payments due to all cities and towns under this section in that year have been determined. If the appropriation made to provide funds for these payments is insufficient in any year to provide full payments hereunder, the sums distributed to the cities and towns shall be reduced on a pro rata basis. The report filed under RSA 41:15 shall indicate the amount of valuation exempted in the city or town under RSA 72:39.

At the time that he determines the rate percent of taxation for the city or town, the commissioner of revenue administration shall determine a "full value rate percent of taxation" which would have been necessary in that city or town had RSA 72:39 not been in effect. The amount of the payment to the city or town under this section shall be determined by multiplying this full value rate percent of taxation times the amount of valuation exempted under RSA 72:39 in that city or town in the year for which the payment is made. Any payment made under this section shall be considered as revenue received by the city or town in determining budget needs for the ensuing fiscal year.

8 Appropriation. There is hereby appropriated the sum of one million dollars for the fiscal year ending June 30, 1975, to be disbursed to the cities and towns pursuant to RSA 72:42-a. Said appropriation shall not be transferred or expended for any other purpose. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

9 Effective Date. This act shall take effect April 1, 1974.

Sen. JOHNSON: This amendment has to do with funding SB 2, or at least starting to fund it, and starting to make a genuine effort to do something about the tax problems for the elderly and others, such as the young who won't have to pay the balance needed, by appropriating some money — not just making an empty gesture. It is time we have property tax relief as in the principle of this bill and that is what we propose to do. One rather interesting thing that turned up in talking over this matter is the fact that the American Association of Retired Persons is also interested in the State financing of this tax base erosion. I quote from the second section of this letter from Mr. Bean who is Chairman: "The committee feels most cities and towns cannot afford to finance local funds and local funding would put an unfair burden on the younger property owner and small business. Therefore we feel that the funding of any tax relief must be met by state revenues." They also favor certain other things in here too; they would like to freeze valuation, which is not in the bill; and they have another paragraph about net income and so on. I think it is time to take a definite stand on playing around with the evaluation in local communities — they are the ones that have to raise the taxes; they are the ones who take the rap for the tax rate — and to put some money

toward a measure to make a genuine effort toward the older people by passing this amendment. I strongly urge the passage. The amendment originally was \$2 million and it has now been changed to \$1 million.

### PARLIAMENTARY INQUIRY

Sen. DOWNING: If this amendment were adopted would the bill then have to be referred to the Finance Committee?

CHAIR: That would be the normal procedure. However, the Rules of the Senate could be suspended if the Body so wishes. After the amendment is adopted, the bill would be on Second Reading and open to further amendment, no further amendment having been offered, then it would be referred to Finance. However, if there is suspension of the Rules, that can be avoided.

Sen. TROWBRIDGE: I would like to speak to the amendment. Before speaking, to the amendment, I think what is going through our minds is how much money is there in the budget or available and where might we spend our funds. This is obviously a priority item. The best I could find out as to what the House is doing, but which is pretty difficult to keep up with these days, they have passed HB 1, which is the budget bill, at a \$3.8 million figure. That is watered down from the original. Then there is another \$3.8 million, the Aid to families with dependent children contingency fund which is now before the Governor and Council because in the budget bill of last year we provided that if the Health & Welfare Department ran out of money there was that reserve that we had for that contingency. That \$3.8 million is a debt against the \$13.5 million that was available. Whether it is in HB 1 or over there doesn't much matter. You have to add it together. You start with HB 1 of \$3.8 million, add another \$3.8 million for this contingency and then the food stamp bill has passed (HB 3) at \$1.4 million; the flat grant supplementary bill (HB 4) has passed and that is \$600,000.00 and then there is a debit of \$700,000.00 for the fall off in revenue to DRED just from general revenue reductions from the ski areas and the parks and all this. That comes to a total of \$10.3 million right there. Then after I made out this schedule, I heard that the House has overturned the House Appropriations Committee and has passed the employees' pay

bill. This is a different pay bill and I am not even sure how much money is in there but about \$3 million I am told. If that is true, the entire \$13.5 million is already spent. Then there are any number of bills here that have money in them. You can take the position that it is already spent and that these are likely to pass — the food stamp is likely to pass; supplements and this kind of thing are likely to pass here — so that we should not fund SB 2. However, I think that we have just done a pretty good job for the State employees on this retirement bill out of retirement funds. We can discuss, and obviously will discuss, a pay bill for the state employees, but the fact of the matter is I don't see any reason why we should not pass this amendment because there will be a lot more come forth. Frankly, I don't see how you can pass aid to the elderly without some funding. You cannot possibly do this thing without recognizing that you are taking out of somebody's pocket and having them fund for other people. I am fully in support of SB 2 and was last session. I am more in favor of it when we recognize that it costs some money and \$1 million is a drop in the bucket really out of the whole problem. It is interesting that the State of Vermont took their revenue sharing funds and put them into a trust fund to be the tax relief pool from which all of the tax exemptions would be repaid to the cities and towns. They recognized that they maybe would not have enough money to pay 100% on the dollar, but they have a position of pro-rating which at least goes toward the problem. What I would like to do is support the amendment of Senator Johnson to SB 2. It does provide an appropriation and then we will see when all their bills are over here and all these bills are over there how we come out. There is some other area of funding available which is the amount of lapses that are concerned. The lapses are running high, maybe as high as \$5 million. We in another session have reappropriated the lapses so that is an alternative. So, I present to you that, although it looks bad, I still think it is even worse to pass SB 2 with no funding and not recognize that is a bill that needs to be funded if it is going to go at all. Therefore, I support Senator Johnson's amendment.

Sen. JACOBSON: I rise in support of this amendment, as a municipal official. First of all, I would like to also add that the bill needs to have technical changes and it should read "amend the bill by striking out all after section 21 and inserting in place thereof sections 22, 23 and 24." If that is not done, the

amendment to the Homestead Act is thrown out by this amendment so that I hope the Senate will accept that technical situation and renumber the sections.

Sen. TROWBRIDGE: I think that this may be a reason to refer it quickly to Senate Finance which can then turn it around and do it at that point.

Sen. DOWNING: I rise in opposition to the pending motion. I might say there was a division within the Ways & Means Committee and that is the reason why the amendment is being offered in the manner it is. I think we have a concept at stake here. I think the Senate is on record as supporting this type of relief for the elderly whether it be funded or not. I think it is rather a lame duck excuse by the Executive to veto this bill for a lack of funding following the last regular session. I feel that it was a senate bill, the idea, the concept originated in the Senate during the last session, it proceeded with very, very thorough deliberations through the legislative process to the Governor's desk where it was vetoed, supposedly for the lack of funding. I think it is important that it leave this Senate Chamber again as close to the form it was in when it last left here as possible. I think probably the technicalities, the changes that need to be made, the late hour of the day, are reasons why probably the amendment should be considered to be offered before the House Committee when it holds its public hearing. Admittedly there was a great deal of sympathy at the public hearing to fund this type of exemption, but I don't think we should be funding something if we don't know where the money is coming from. Now we have heard the testimony from the distinguished Chairman of the Senate Finance Committee and the money isn't there unless something happens — it is taken out of something else. The course is on right now, there just isn't enough money to do all of the things we want to do. I would not like to see the concept of SB 2 go down the drain in a priority fight so I think it should pass on its own merits. Either we feel that the elderly are deserving of the consideration we thought they deserved just a few months ago — that they still deserve it — or we don't. And let's pass the bill on the merits of the concept and let's fund it if and when we know we can fund it. I don't think there is any need to be playing to the public or kidding anybody. The money isn't there. We don't know where it is going to come from. And why put an appropriation on something

when we don't even know if we have it. Let's fund it at the time we know we have the money. Meanwhile, let's move the concept we have approved in the past on again.

CHAIR: We will put the amendment to the floor. If it is defeated, it becomes a moot question. However, if it passes, the Chair intends to refer it to Finance briefly in order to make the technical changes and it will be reported out of that Committee with the changes made.

Sen. SANBORN: Senator Johnson, we have been reading and hearing quite a bit by the media in several forms about home rule lately. Would you say we might be abridging home rule if we did not pass your amendment since it is the local assessor's job to assess property.

Sen. JOHNSON: I think that could be so considered.

Sen. TROWBRIDGE: Senator Downing, in the addition of the funds available, I was saying that some of the things that look like they are absolutely essential add up to \$10.3 million. That would leave \$3.2 million balance. The employee pay bill comes to \$3 million but may or may not survive. So that is it not true that of the \$2.3 million left over it is conceivable that this \$1 million in SB 2 could be used and it is not fair to say the money just isn't there?

Sen. DOWNING: I realize what you said and I appreciate your immediate statement to be quite accurate with the exception of your final comment. I think it is fair to say we don't know where the money is going to come from and we don't know that we have the money to fund it at this time. We are kidding ourselves and we are kidding everybody when we say we are going to fund it. I say, let's establish priorities, and once the bills with appropriations in them exchange houses, then I feel we can establish priorities. We will know who wants to put what money where. And I am certain that the close manner in which the Chairman of the Senate Finance Committee and the Chairman of the House Appropriations Committee work in trying to keep things moving around here, I am sure the priorities, at least with respect to those committees, will be established relatively early and we will have a better idea of where we want to put our money or where the "money committee" wants to recommend we put it.

Sen. TROWBRIDGE: My question is how can SB 2 be added to the list of funding priorities unless it at least goes over to the other side with funding?

Sen. DOWNING: It can be added there simply enough at the hearing at the request of the sponsor of the amendment.

Sen. JOHNSON: Senator Downing, is it not quite true that last time we were going to fund this but somehow it got lost in the shuffle that the funding bill came on before the other one showed up and by the time it showed up, it was too late? Wasn't that the intent there, to try to fund it?

Sen. DOWNING: No, I don't think it was the intent of the Senate to fund SB 2 during the regular session and I don't think it should be the intent to do it now either.

### ROLL CALL

Roll Call requested by Senator Johnson. Seconded by Senator Green.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Sanborn, Provost, Brown, Bossie, Johnson, Preston and Foley.

Nays: Sen. Downing.

Result: Yeas 19; Nays 1.

Amendment Adopted. Referred to Finance Committee.

### RECESS

### AFTER RECESS

### SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended as to dispense with notice of hearing, holding of hearing and introduction of committee report not previously advertised in the Journal on SB 2.

### COMMITTEE REPORT

#### SB 2

to provide fairer real estate taxes for the elderly through



a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law. Ought to pass with amendment. Senator Trowbridge for Finance.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### An Act

to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

Amend the bill by striking out all after section 6 and inserting in place thereof the following:

7 Adoption of Homeowners' Exemption. Amend RSA 72:44, I (supp) as inserted by 1973, 482:2 by striking out said paragraph and inserting in place thereof the following:

I. A town desiring to adopt the provisions of this subdivision may have the question placed on the warrant for an annual or special town meeting by action of the selectmen or by petition as provided in RSA 39:3. Such question shall be presented for voter approval on a separate ballot and shall be worded as follows:

"Shall the town adopt the homeowners' exemption provisions of RSA 72 granting a \$5000 exemption based on equalized assessed valuation in all owner-occupied units, or a \$10,000 exemption based on equalized assessed valuation on all owner-occupied units by persons over sixty-five years of age, provided that the valuation of such owner-occupied units does not fall below \$8000 after the granting of any such exemption?"

Upon the ballot containing the question shall be printed the word "Yes" with a square near it at the right hand of the question; and immediately below the word "Yes" shall be printed the word "No" with a square near it at the right hand

of the question; and the voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

8 Reference Correction. Amend RSA 72:44, II (supp) as inserted by 1973, 482:2 by striking out in line seven the letter "(c)" so that said paragraph as amended shall read as follows:

II. A city desiring to adopt the provisions of this subdivision may have the question placed on the official ballot for any regular municipal election for the election of city officers upon a vote of the city council or upon submission of a petition signed by five percent of the registered voters of the city to the city council. Such question shall be placed on the official ballot by the city clerk with the wording and in the form provided for in paragraph I.

9 Exemption Qualifications. Amend RSA 72:45 (supp), as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:45 Owner-Residents Exempted. Every person who has the legal or beneficial title in equity to real property including a mobile home in this state and who resides thereon and in good faith makes the same his permanent home, or the permanent home of another or others legally or naturally dependent upon said person, shall be entitled to an exemption of five thousand dollars of equalized assessed valuation as determined by the department of revenue administration from all taxation except for special assessments on said home up to an assessed valuation determined by the department of revenue administration; provided, however, that in no case shall the remaining equalized assessed valuation be less than eight thousand dollars on any homestead. Said title may be held solely, jointly or in common with others and said exemption may be apportioned among such of the owners as shall reside thereon as their respective interests shall appear. The exemption provided herein shall be allowed on each condominium parcel occupied by its owner and on any other entity recognized at law as realty and occupied by its owner.

10 Exemption Computation. Amend RSA 72:46 (supp) as inserted by 1973, 482:2 by striking out in line nine the words "tax commission" and inserting in place thereof the following

(department of revenue administration) so that said section as amended shall read as follows:

72:46 Computation of Exemption. Owner-resident real estate, as defined in RSA 72:45, occupied by qualified owners under sixty-five years of age, to the assessed valuation of five thousand dollars and occupied by qualified owners sixty-five years of age and over to the assessed valuation of ten thousand dollars shall be exempt from taxation; provided, however, if property within the town or city is not assessed at its full and true market value, the amount of the valuation exempted will be that portion of five thousand dollars or ten thousand dollars that the level of assessment as found by the department of revenue administration bears to one hundred percent.

11 Definition of Residence. Amend RSA 72:48 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:48 Definitions. For the purposes of this subdivision, the term "owner-occupied unit" or "residence" shall mean that dwelling place which a taxpayer claiming a homeowners' exemption occupies in good faith and in such a manner that he regards such dwelling place for which the exemption is claimed as his domicile, to the exclusion of all other places where he may temporarily reside from time to time. An owner-occupied unit, temporarily held in estate or in trust, but otherwise qualified for exemption may, on action of the selectmen or assessors, qualify for such exemption. In those instances in which the owner of a home, otherwise qualified, utilizes some portion of the home for business or commercial purposes, the selectmen or assessors may apportion the exemption in a suitable manner.

12 Form of Exemption. Amend RSA 72:50 (supp) as inserted by 1973, 482:2 by striking out the introductory paragraph and inserting in place thereof the following:

The department of revenue administration shall furnish to the assessors of each town a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to said exemption. Said forms shall be substantially as follows:

13 Filing Date. Amend RSA 72:51 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

## 72:51 Taxpayer Claims.

I. Each taxpayer who claims said exemption shall file on one of said forms, properly completed, with the local assessor on or before April fifteenth of each year. Provided, however, that any person entitled to a homeowners' exemption who by reason of active military service or incapacitating illness is unable to complete a form, may file such form through or by his next of kin or through any other person he may duly authorize in writing to file such claim.

II. During the first year in which the provisions of this subdivision shall be effective in any town or city, application forms shall be filed with the local assessor on or before June first of such year.

14 Notice Requirement. Amend RSA 72:52 (supp) as inserted by 1973, 482:2 by striking out the introductory paragraph and inserting in place thereof the following:

As soon as practicable after February first, and twice more before February twenty-eighth, local assessors shall publish in newspapers of general circulation in that locality a notice reading substantially as follows, except that in the first year in which the provisions of this subdivision shall be effective in any town or city, such notice shall be published on March fifteenth and twice more before May first, and the filing date for applications in such notice shall be June first:

15 Duty of Assessors. Amend RSA 72:55 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:55 Duty of Selectmen or Assessors. The selectmen or assessors shall examine each claim for exemption filed with them and shall approve the exemption if the requirements of this chapter have been met. In the event a claim is disallowed, the selectmen or the assessors shall notify the claimant in writing immediately but in no event later than May fifteenth of the taxable year in question; provided, however, that in the first year in which the provisions of this subdivision shall be effective, notice to the claimant shall be made not later than July first of the taxable year.

16 Hearing. Amend RSA 72:56 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:56 Hearing. Whenever the selectmen or assessors refuse to allow an exemption and the claimant has been so notified, the claimant may, on or before June fifteenth, notify the selectmen or assessors in writing of his request for reconsideration, except that in the first year in which this subdivision shall be effective, such claimant shall notify the selectmen or assessors in writing by August first. Upon receipt of such request, the selectmen or assessors shall set a hearing date for said claimant and notify him in writing of said date; provided, however, that said hearing must be scheduled for a date within thirty days of the selectmen's receipt of the claimant's request. At said hearing before the selectmen or assessors, the claimant may present such evidence as he can adduce to establish his right to an exemption. The selectmen or assessors shall reevaluate the claim and shall notify the claimant of their decision within five days after the hearing. A claimant aggrieved by an adverse decision after hearing shall have the right to appeal to the board of taxation within ten days of the date of such adverse decision. Said board may order an exemption or an abatement if a tax has been assessed.

17 Appeal from Board. Amend RSA 72:57 (supp) as inserted by 1973, 482:2 by striking out in line two the words "tax commission" and inserting in place thereof the following (board of taxation) so that said section as amended shall read as follows:

72:57 Further Hearing; Appeal. Claimants aggrieved by a decision of the board of taxation may request a rehearing or institute an appeal according to the provisions of RSA 541.

18 Procedure for Hearings. Amend RSA 72:58 (supp) as inserted by 1973, 482:2 by striking out in line one the words "tax commission" and inserting in place thereof the following (board of taxation) so that said section as amended shall read as follows:

72:58 Hearing Procedure. The board of taxation and selectmen or assessors shall determine their own rules and procedures for hearings; provided, however, that the hearings shall be open to the public, informal, with citizens having the right to appear personally or with counsel. Counsel may represent an aggrieved person or any interested party in his absence.

19 False Application. Amend RSA 72:59 (supp) as in-

serted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:59 Penalty for False Application. If an applicant for a homeowners' exemption wilfully misrepresents himself as eligible for a homeowners' exemption, or as being over age sixty-five or who wilfully applies for more than one homeowners' exemption at any time in New Hampshire, he may not be granted an exemption on any property within the state for a period of ten years. Enforcement of this provision shall be under the authority of the board of taxation. Any municipality or individual citizen bringing allegation against any applicant may go to the board of taxation, which shall then investigate said allegation. If the board finds against the applicant, an appeal may be had in accordance with RSA 541.

20 Public Hearing Required. Amend RSA 72:44 (supp) as inserted by 1973, 482:2, by inserting after paragraph III the following new paragraph:

IV. Prior to any town meeting or city election at which the question of whether or not to adopt the provisions of this subdivision shall be voted upon, the selectmen or city council shall hold two public hearings at least one week apart on said question. The last of such hearings shall be held not later than one week prior to the meeting or election at which the question shall be voted upon. Notice of such hearings shall be placed in a newspaper of general circulation in such city or town not later than one week prior to the date of said hearings.

21 Applicability. Any city or town which shall have adopted the provisions of RSA 72:44-60 relative to the homeowners' exemption prior to the effective date of this act shall be deemed to have adopted such provisions as amended by sections 7 through 20 of this act, provided, however, that the validity of the adoption of the homeowners' exemption in such city or town shall not be affected by any added requirements imposed pursuant to the provisions of sections 7 through 20 of this act.

22 Exemption Compensation for Municipalities. Amend RSA 72 by inserting after section 42 the following new section:

72:42-a Compensation for Exemption. To compensate cities and towns for the loss of taxable valuation under RSA 72:39, a payment as determined in this section shall be made to

such cities and towns by the state treasurer as soon as possible after the total payments due to all cities and towns under this section in that year have been determined. If the appropriation made to provide funds for these payments is insufficient in any year to provide full payments hereunder, the sums distributed to the cities and towns shall be reduced on a pro rata basis. The report, filed under RSA 41:15 shall indicate the amount of valuation exempted in the city or town under RSA 72:39. At the time that he determines the rate percent of taxation for the city or town, the commissioner of revenue administration shall determine a "full value rate percent of taxation" which would have been necessary in that city or town had RSA 72:30 not been in effect. The amount of the payment to the city or town under this section shall be determined by multiplying this full value rate percent of taxation times the amount of valuation exempted under RSA 72:39 in that city or town in the year for which the payment is made. Any payment made under this section shall be considered as revenue received by the city or town in determining budget needs for the ensuing fiscal year.

23 Appropriation. There is hereby appropriated the sum of one million dollars for the fiscal year ending June 30, 1975, to be disbursed to the cities and towns pursuant to RSA 72:42-a. Said appropriation shall not be transferred or expended for any other purpose. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

24 Effective Date. This act shall take effect April 1, 1974.

Sen. TROWBRIDGE: The Committee amendment is merely a technical one of renumbering the sections to conform with the amendments submitted by Senator Jacobson and Senator Johnson.

Sen. DOWNING: I would like to rise in support of the Committee Report and, while I am up here, I want to advise the Senate that my reason for not wanting funding attached to the bill was two-fold. Number 1, I think we are following the dictates of the Executive when he vetoed SB 2 following the regular session, which I don't think is required of us. And number 2, I feel the bill is placed in jeopardy now going over to the other House with funding. I say sincerely that, if you are really interested in relieving the property tax burden on the elderly,

you have a responsibility now to see that your priorities for funding start with SB 2.

Sen. JOHNSON: I want to say I rise in support of the Finance Committee report and I just want to make it perfectly clear to my good colleagues that this financing is not at the dictate of the Governor.

Amendment Adopted.      Ordered to Third Reading.

Sen. Downing recorded in favor of SB 2.

### TAKEN FROM THE TABLE

Sen. Lamontagne moved SB 27 be taken from the table.

Adopted.

### Second Reading

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

Sen. Lamontagne moved adoption of an amendment.

Sen. LAMONTAGNE: What this amendment really does is amend the amendment in which hanging was changed to life imprisonment. What I am asking is the electric chair for capital punishment. This changes what is now on the floor of the Senate which is the life sentence which I don't believe is the right thing. I feel this is a better protection for our people in this state. A life sentence — and I would to repeat again — only means there is a possible chance on a certain day that this law will be amended when these people have committed a bloody murder as has been proven in the Martineau case which is a good example when these people got freedom when they should have been hung. I am very much in accord with changing the old law from hanging, which has been changed by this Senate to a life sentence. Now I am asking you to change it for better protection of the public to the electric chair. I am positive that Attorney General Rudman is 100% in favor of the electric chair. What has been passed by this Senate it was said it was a compromise. I think it was a compromise because the Attorney General did not want to lose the whole thing. But right now, I think the question is before us and my own personal feeling,



although I might be from the old school, I would rather see having capital punishment so that it can scare other people who may attempt to commit the crime of first degree murder. When the State law would be to have the electric chair, I feel sure that some of these people will think for the second time before they commit this crime. One more thing I would like to ask you to think about. How about the people who commit poisonings? How about starving? How about starving a young child who hasn't even got a chance to protect itself? A person who will starve a young child should be put into the electric chair. And what about what is going on today — the bombings. It could be you; it could be anyone who goes into an office and could be bombed. Look at what happened in Manchester. Look what has been happening on planes. It could happen in this State too. I am urging you to amend the present statute now pending before you and I ask you to put the electric chair as capital punishment in this state.

Sen. S. SMITH: I rise in opposition to the amendment. If reason rather than emotion is to prevail, I think there is no question but that life imprisonment is more effective in getting convictions of those who have committed the crime about which Sen. Lamontagne spoke, than getting a jury to convict a person of a capital punishment with the death penalty involved — whether it is by hanging, electrocution or any other means.

Sen. Bossie moved the previous question.

Adopted.

### ROLL CALL

Roll Call requested by Sen. Lamontagne. Seconded by Sen. Poulsen.

Yeas: Sens. Lamontagne, Poulsen, Sanborn, Provost and Johnson.

Nays: Sens. S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Brown, Bossie, Downing, Preston and Foley.

Result: Yeas: 5, Nays 15.

Amendment defeated.

## ROLL CALL

Roll Call requested by Sen. Baisdell. Seconded by Sen. Downing.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, R. Smith, Sanborn, Provost, Brown, Bossie, Johnson, Downing, Preston and Foley.

Result: Yeas 20; Nays 0.

Ordered to Third Reading.

## COMMITTEE REPORTS

**SB 25**

providing for the appointment of the commissioner of health and welfare and the director of divisions of health and welfare by the governor and council. Majority: Ought to pass; Minority: Inexpedient to legislate. Sen. Sanborn for Majority; Sen. Preston for Minority of Public Health.

Sen. SANBORN: This bill comes in from the Committee on Public Health and Welfare with a majority vote of ought to pass. We have had an impasse in state government for some three or four months now in having no Commissioner of Health and Welfare. As I have said before, this is the largest State Department, certainly the largest in the amount of money in this State, and I do think that somehow or other we should get off the dime and have a Commissioner in charge of this Department. I hope the Senate will support this bill.

## INDEFINITE POSTPONEMENT

Senator Preston moved SB 25 be indefinitely postponed.

Sen. Preston: We are all aware of the recent Supreme Court decision in answer to the request made by this body as recently as a week ago. Just quoting a couple of excerpts from that decision, it stated: "It fairly appears both from the legislative history and the language of the statute, that it was intended that the Governor and Council should appoint from one or more nominees submitted by the advisory commission." We asked the question whether they were to appoint one of the two nominees nominated by the commission. That answer was in the affirmative. The indicated that "Since the impasse be-

tween the commission and the Governor and Council has existed for a period of three months their responsibilities suggest that the end of a reasonable time for making an appointment is near at hand."

SB 25 provides that the Governor and Council alone shall appoint the Commissioner of Public Health and Welfare and the directors of the division of Public Health, Welfare and Mental Health.

I speak as a minority of one member of the Public Health Committee to express the principle involved here. Do we once again wish to revert back to the political arena in the appointment to such sensitive positions? Two people appeared for this bill—the sponsor and a representative of the Governor's office. Several State Representatives; members of the Health and Welfare Advisory Commission; Dr. Myers, Public Health Director; Mr. Hooker, Division Director of Welfare; Dr. Dykens, Director of the Division of Mental Health appeared in opposition to this piece of legislation. I might add that no personalities were interjected; the three nominees were not mentioned and I would say, personally, that all three nominees under consideration, to my knowledge, offer backgrounds of competence that are most impressive. The personalities are not the point in question. To resolve a current situation, are we creating problems for the future by allowing political appointments to these posts? The Commissioner supervises the greatest part of the dollars in our state budget. Last year I believe the total was an estimated \$159 million. Perhaps what would be more effective would be a bill spelling out qualifications for candidates so we would be assured of the administrative expertise this job demands.

It was brought out at the hearing that the morale of people and patients of the Health and Welfare Departments are affected by political interference. I think we should care more and by interfering politically we may be "allowing politicians to practice medicine without a license."

The Health and Welfare Commission members, we must remember, are appointed by the Governor and Council. These members serve without compensation and appear to consist of a good cross-section of interested people, both professional and laymen: 1 social worker; 1 businessman; 1 psychologist; 1

county home administrator; 1 pediatrician; 1 protestant clergyman; 1 day care administrator; 1 lawyer; 1 general medical practitioner; 1 nurse; 1 psychiatrist; 1 hospital administrator and 1 dentist.

New Hampshire is unique and envied for citizen participation committees. Where else in this country can Governor and Council call upon interested and busy people to serve in various committee posts, seeking no compensation other than the honor of serving in such posts and, in some cases, taking much abuse in the process of carrying out their duties? New Hampshire citizens are honored that the Governor should so designate them to serve. Are we by this piece of legislation jeopardizing this envied citizen participation in government? Why continue the commission process if one of its principal duties is to be abolished?

One of the newest members of this Commission, having served three months, testified he finds the advisory group is not political and its objectives are in the best interest of the people. This Commission has worked well for twelve years and by the passage of this bill, we are negating the people interest in public health and welfare in New Hampshire.

Are we going to legislatively slap the wrists of the members of the Advisory Commission for doing their job? Will we place them in the Archibald Cox role—having hired them to do a job and firing them for doing it? The appointments we speak of will deal with people's problems, not a product or politic.

In closing, I would urge that all parties concerned resolve this impasse—appoint, and let's proceed within our commitment to the State Hospital and other problems confronting us. But let not this body of the Senate be used for what today may be politically expedient but, in the future years, could place these posts out as political patronage posts which they should not be.

I urge the defeat of SB 25 on principle and request support of my motion.

Sen. SANBORN: When you mentioned the Supreme Court Decision, I believe there was something relative to the effect that the Governor and Council should, after a period of time, select one of the two. A hypothetical question—supposing the Governor and Council vote on the two selectees and it

comes out a tie—3 to 3? Does the Supreme Court step in then? What would they do?

Sen. PRESTON: I have confidence that the Governor of this state and the members of the Council can resolve this issue. I don't care if they nominate three new people. That is not the point. I think this is being used as a political tool and I am convinced they can resolve their problems and get on with their business.

Sen. SANBORN: You remarked that the Governor and Council select the Advisory Commission. Are they not restricted in who they shall appoint in about nine of the 15 positions?

Sen. PRESTON: That is correct.

Sen. SANBORN: May I ask what they are restricted to and the amounts.

Sen. PRESTON: It is my understanding they receive recommendations as to who the appointee shall be to fill one of the posts which is open, whether it be a social worker or businessman or a layman.

Sen. SANBORN: I don't think that you quite answered the question. My question is don't 9 of those positions have to be filled within social worker and medical ranks?

Sen. PRESTON: I honestly can't answer your question.

Sen. SANBORN: Isn't it true that in these 9 areas that the society such as the New Hampshire Medical Society, the New Hampshire Dental Society, the New Hampshire Social Workers group, etc. put up two names from which they must, and I believe it is very emphatically *must*, take?

Sen. PRESTON: That is correct. And that is very comforting to me to know that each one of those professional people are represented.

Sen. LAMONTAGNE: Could you tell us what profession are the people that are now on the board making recommendations now for the new Commissioner of Health and Welfare.

Sen. PRESTON: The professions of the members of the Advisory Commission? I just read the makeup of the Commission.

Sen. LAMONTAGNE: Would you read them again.

Sen. PRESTON: 1 social worker; 1 businessman; 1 psychologist; 1 county home administrator; 1 pediatrician; 1 protestant clergyman; 1 day care administrator; 1 lawyer; 1 general medical practitioner; 1 nurse; 1 psychiatrist; 1 hospital administrator; 1 dentist.

Sen. LAMONTAGNE: There is no question about it. I believe in the recommendation of the Court. The Court had to rule on the question sent to them. But now a change is needed. This is why I am in opposition to the present motion of indefinite postponement. This matter should be corrected. I will say this publicly—I am aware that when Jim Barry was in the office he held up some checks from pharmacists. I know of him holding back some checks from doctors and I know of him holding back checks of others and you can't expect that these people are going to turn around and put in the name of Jim Barry to be sent to the Governor and Council. There are many other things I know of, professional people, who oppose Jim Barry and the whole thing is Jim Barry. Let's face it. You can't punish a man who did an excellent job—and I am not afraid to say so because I have been here all these years that Jim Barry has been here. But the question of the Court is not what is before us. The question is having more candidates so there will be a better choice for the Governor and Council. And I think this is important because what happened 12 years ago I think has not worked out well. This is a chance for us to make an improvement. I don't think this SB 25 is asking too much. I hope you will defeat this motion.

Sen. DOWNING: I rise in opposition to the pending motion. I had planned to offer an amendment to the bill. If the present motion carries, I will not have that opportunity. I might say I am not in favor of SB 25 in its present form and I could not support it in that form. I am very disappointed though both in the Executive Department and the Advisory Committee that they have dragged this thing on as long as they have. I don't think they have acted as responsibly as we have the right to expect them to act—either party. I think something has to happen to kind of break up the impasse to allow people to save face or what have you. I think we do it regularly in the legislative process and I think it is incumbent upon us to show them the lead, show them the way and give them the door to go through to get moving in another direction. As I say, if you accept the pending motion, we won't even have an opportunity

to demonstrate this leadership or give off this direction to the Executive Department or to the Advisory Committee. I hope you will defeat the pending motion. I think the law useless as it is written. I think anybody in this Chamber certainly could take the argument either for the Executive Branch or for the Advisory Committee. You could do it relatively easily—to defend their position. The fact is it is being dragged out too long. They just are not compromising. They just are not getting together. And for us to just pass this motion before us now leaves it right where it is. It is still at an impasse; it still is a problem; and it still is lacking in leadership to solve the situation. I don't think the court decision went far enough. I don't think it was plain enough, although there is disagreement there as well. I think if it is further delayed, then an additional court action would have to be initiated to get it resolved. We have to show proper leadership right here. We know how to do it. Let's show them how to do it and it's not by passing this motion. I hope you reject it and give me an opportunity to offer and defend my amendment.

Sen. TROWBRIDGE: I would like to make a few remarks in favor of the pending motion. I think we have a law that has stood the test of time. Other governors have worked perfectly well with the Advisory Commission—Governor King, Governor Peterson—and they both made appointments. I don't see that there is anything wrong with the present law. The problem that we have in this impasse is that we have a person in the governor who at this point simply will not see that he cannot make all his own decisions unilaterally. If the Advisory Commission had brought up two unqualified persons, you could quarrel with this, but in the form of Major Wheelock and Thomas Prentice, who so far as I know are perfectly qualified for the job, the question is only the Governor's unwillingness to execute the laws of the State of New Hampshire. Now we are told—we the Legislature—since the Governor won't compromise that we have to set up a compromise for him—that we somehow have to restructure it so that the Governor can save face. I don't think that the Governor has to save face or lose face. What he has to do now that he knows what the Court decision is is that he should meet with the Governor and Council next Wednesday and he should appoint one of the two gentlemen who have been proposed or, if there is another qualified candidate that the Advisory Commission wants to bring up, fine. But I don't think that we are

going to get anywhere in this state so long as we will say if a person is truculent enough, stubborn enough, that we will change the law in order to fit your style. I think that we can get on here. The argument is to put the bill over to the other house so it is alive. What it is really is an effort to have the issue kept alive so that the paper and the Governor can beat the Advisory Commission over the head for another week thinking that if the matter is still alive that somehow they don't have to take any action next Wednesday because it may be that SB 25 will pass and you will further delay this process. I think it is clear to the Governor that he is, under law, right now, required to submit one of the two names. If the Council were to turn down that name, then that is the Council's responsibility and everybody has their responsibility. I think it would be incumbent upon the people to put pressure upon the Council to accept whichever name the Governor chooses of the two. But why do we have to conform our way of doing things because we have a Governor who is unwilling to go through the normal political processes which have been set up and have been found perfectly good by at least two other governors. I don't know of any beyond John King. So, I feel we should at this point say, no the system is alive and working in New Hampshire, the Advisory Commission has done its job. It has investigated the candidates and we should back up, as Senator Preston said, our citizen participants who have gone and done their jobs and taken an enormous amount of abuse on this and if we don't do this now, that is a real slap in the face to those 15 people. I want to have this bill indefinitely postponed.

Sen. S. SMITH: I also rise in support of the pending motion to indefinitely postpone. I am fortunate enough to have had the opportunity when I was on the Governor's Council to be assigned as Council Representative to the Health and Welfare Advisory Commission. I can only reiterate what Senator Preston said about the dedication, concern and the professionalism of that body. I would also state that there is a reason that the law is as it is at the present time. I think that the Senate and the House, when they passed the original bill establishing the Health & Welfare Commission did so with the very sound understanding that this new Department—the Department of Health and Welfare—is a highly complex, a highly sensitive department and that there should be a buffer between direct political action and the professional aspects of it. The Depart-



ment cannot stand terrific shifts in political thought from moment to moment. The Governor of the State and the Council have the opportunity to appoint people to the Health and Welfare Advisory Commission and through this type of change can be accomplished a long range change that may be necessary. But, to adopt this at the present time, I would agree also with Senator Trowbridge, is a slap in the face to the professionalism of that Commission.

Sen. DOWNING: When the Legislature demonstrated its infinite wisdom in developing this statutory area in the first place, why did they include the final approval, or leave the final approval up to the Governor and Council?

Sen. S. SMITH: I think they wanted to balance the process of this appointment. The Health and Welfare Advisory Commission in its operation, without this power of recommending appointment, would have little power to influence the decisions of the Health and Welfare Department. With the combination appointment, it worked smoothly and well and this is not unique. We have in other departments similar types of appointing power.

Sen. DOWNING: Do you know, in fact, that the origin of the establishment of this Advisory Commission and not leaving any total appointing power with the Executive was in fact a political partisan maneuver when the Legislature may have been in sympathy one way and the Executive may have been another way?

Sen. S. SMITH: I am not sure of this. That may have played a part in it, I don't know. But I do think the system, as has been indicated, has worked well over the past years.

Sen. DOWNING: Didn't the prior system work longer than the present system?

Sen. S. SMITH: Yes. But it was found lacking.

Sen. DOWNING: But by your own admission it was probably found lacking on the basis of partisan expediency and a definite political maneuver to change it around?

Sen. S. SMITH: As I recall, this was one of several reorganization bills that came before the legislature; another one was to form the Department of Safety also the Department of Resources and Economic Development.

Sen. LAMONTAGNE: Are you aware of any other governor submitting a name to the board and asking them to make their recommendation to the Governor and Council?

Sen. S. SMITH: I am not aware of the exact process of how it was done one way or the other. I am sure Governor's have had preferences.

(Senator Porter in Chair)

Sen. LAMONTAGNE: At any time prior to this Governor, has any other governor had trouble with the head of Health and Welfare and, at the same time wishing to have one of its own friends to become the Commissioner of Health and Welfare?

Sen. S. SMITH: I don't think it would be a healthy political situation if there were disagreements between the Executive office and the Commissioner of Health and Welfare.

Sen. LAMONTAGNE: You are not giving me a definite answer whether or not there have been other governors who wanted to have a choice of their own become the Health and Welfare Commissioner—whether it was King or Peterson or anyone else.

Sen. S. SMITH: I am sure that some governors would like to have direct control.

Sen. LAMONTAGNE: Well, have they? Did they make any recommendations?

Sen. S. SMITH: They may have. I don't know what recommendations were made by previous governors.

Sen. LAMONTAGNE: Were you on the Governor's Council?

Sen. S. SMITH: Yes.

Sen. LAMONTAGNE: What year?

Sen. S. SMITH: 1968 and 1969.

Sen. SANBORN: I had been given to understand that a similar situation to our present situation had come up once before and at that time the Governor did make a recommendation and the Commission after a while did appoint the Governor's recommendation. Is this true or not?

Sen. S. SMITH: I think governors in the past have had concern as to who would be the Health and Welfare Commissioner and have made suggestions. This is a perfectly normal approach.

Sen. SANBORN: Well, wouldn't you agree that it is just as much right now a case of 15 people trying to thwart the Governor as the Governor and Council trying to thwart 15 people?

Sen. S. Smith: I think that we can, as a former President used to say, reason together.

Sen. JACOBSON: Senator Smith, I think you made a statement in response to one of the questions that we have other similar appointing arrangements. Could you identify those for us.

Sen. S. SMITH: Yes. I think the Commissioner of Safety makes recommendations to the Governor and Council for the directors of the various divisions within the Department of Safety.

Sen. JACOBSON: But that is not a commission, is it?

Sen. S. SMITH: It is not a commission but it is not a direct Governor and Council appointment. Also, the Data Processing Commission appoints the Director with the advice and consent of the Council. They make the nomination to the Governor—the whole Commission does that.

Sen. JACOBSON: Are you correct about that?

Sen. S. SMITH: I believe I am correct. I went through it.

Sen. JACOBSON: According to my information, only the Commission makes the appointment.

Sen. S. SMITH: The Commission makes the appointment, but to get the appointment through there, the Governor and Council must approve the salary, I believe.

Sen. JACOBSON: I am most regretful that this bill should come in when we have this tremendous interweaving of political machinations. I have tried to look at all of the various commissions and, as far as I know, there is no other set up that follows this hybrid system which has precipitated the crisis. I

would like to state that I would like to be for one of two methods. I would like to see it followed in the same way as the Trustees of New Hampshire when they select a President or when the State Board of Education selects a Commissioner or when the Data Processing selects its Commissioner—they are appointed—that is the Trustees, State Board of Education, the Commission members in part are appointed by the Governor. But once they make an appointment it is that. I think that is a rightful system to do. Or the other system where the Governor appoints. I think that this system must have been designed for political purposes because it is the most hybrid system of all. It does not follow any other pattern. I personally wish the Governor—and I want to go on record as saying that—would appoint Major Wheelock and this not to denigrate Mr. Prentice. I do not know Mr. Prentice, but I think Mr. Wheelock is experienced and could do the job and we would resolve the problem and then come back and discuss this whole problem. That is what I wish we could do. But I think on the other hand there is some rightness in what Senator Downing says that we also have a responsibility for the statutes and the way they are created. We cannot just create them and then say, O. K., it's all over with you people. You can either fight it out in the courts or do it. I think we have a responsibility to make commissions and see that they function in the least crumpling kind of way. We should be making these statutes not with respect to Governor X or Governor Y but for the benefit of the State. So I think we do have in this set-up a double lock step arrangement in which, for example, the medical society makes 3 nominations and the Governor must choose from the nominees of the medical society. Then, when they get to be members of the commission they can then make nominations from which he must choose. To me, I think this is a very cumbersome system. I would prefer the State Board of Education example or the Trustees of New Hampshire or the Data Process Commission or the Fish and Game Commission is another example. Once they are appointed, they appoint their executive officer. But the present system, I think, is fundamentally an unworkable system and we have entered into the crisis. It could have been the other way around, depending upon who the people are. So I think we have a responsibility to make these things function in the least frictional way.

Sen. TROWBRIDGE: Then, I take it, Senator Jacobson,

that if the motion for indefinite postponement were to fail, you would offer an amendment making the appointment authority the Advisory Commission alone?

Sen. JACOBSON: I have not prepared that, but I would be glad to do that.

Senator FOLEY Moved the Previous Question.

Adopted.

### ROLL CALL

Roll Call requested by Senator Sanborn. Seconded by Senator Lamontagne.

Yeas: Sens. S. Smith, Bradley, Green, Spanos, Blaisdell, Trowbridge, R. Smith, Bossie, Johnson, Preston and Foley.

Nays: Sens. Lamontagne, Poulsen, Gardner, Jacobson, Sanborn, Provost, Brown and Downing.

Result: Yeas 11; Nays 8.

SB 25 Indefinitely Postponed.

### SUSPENSION OF RULES

Senator JACOBSON moved the Rules of the Senate be so far suspended as to allow the introduction of committee reports not previously advertised in the Journal on SB 20, SB 23 and SB 24.

Adopted.

### COMMITTEE REPORTS

#### **SB 20**

providing for regulation of franchise agreements for the sale of gasoline. Ought to pass with amendment. Senator Jacobson for Executive Departments.

### AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Regulation of Gasoline Franchises. Amend RSA by inserting after chapter 339-B the following new chapter:

## Chapter 339-C

## Regulation of Gasoline Franchises

339-C:1 Definitions. For the purposes of this chapter, the following words shall have the following meanings, unless the context already requires otherwise:

I. "Supplier" is any person engaged in the sale, consignment or distribution of petroleum products to retail outlets.

II. "Dealer" is any person who is not a petroleum supplier, engaged in the retail sale of gasoline to the motoring public in the state under agreements entered into with a petroleum supplier.

III. "Agreement" is any written agreement between a supplier and a dealer under which the dealer is granted the right to use a trademark, trade name, service mark or other identifying symbol or name owned by the supplier.

IV. "Persons" means an individual, corporation, business trust, estate, trust, partnership, unincorporated association, two or more of the foregoing having a joint or common interest, or any other legal or commercial entity.

339-C:2 Agreements Regulated. This chapter shall apply to agreements pertaining to the sale of gasoline and related products when (a) more than twenty percent of the dealer's gross sales are covered by such agreement and (b) such gross sales covered by such agreement are more than twenty-five thousand dollars yearly.

339-C:3 Supplier's Disclosure to Dealer. A supplier shall disclose in writing to any prospective dealer the following information, before any agreement is concluded:

I. The gallonage volume history, if any, of the location under negotiation for and during the three year period immediately past or for the entire period during which the location has been supplied by the supplier, whichever is shorter.

II. The name and last known address of the previous dealers for the last three years, or for the entire period during which the location has been supplied by the supplier, whichever is shorter, and the reason for the termination of each dealer's agreement.

III. Any legally binding commitments for the sale, demonstration or other disposition of the location in effect prior to the termination date of the agreement.

IV. The training programs, if any, and the specific goods and services the supplier will provide without cost to the dealer.

V. Full disclosure of any and all obligations which will be required of the dealer, including but not limited to, any obligation to exclusively deal in any of the products of the supplier, its subsidiaries or any other company or any advertising and promotional items that the dealer must accept.

VI. Full disclosure of all restrictions on the sale, transfer, renewal and termination of the agreement.

#### 339-C:4 Supplier's Right to Terminate Agreement.

I. A supplier who enters into an agreement for the purpose of conducting a gas station business, which may include a lease with options to renew said agreement or to renew said lease if one is included, may terminate, cancel or refuse to renew such agreement or lease, by submitting notice to the dealer at least ninety days before the effective date of such termination, cancellation or refusal to renew.

II. A supplier shall not impose any conditions on a dealer which are not stated in the agreement between the parties.

III. Grounds for termination, cancellation or refusal to renew an agreement or lease which are not contained in the agreement between the supplier and the dealer may be decided by negotiation between the supplier and the dealer or any negotiating agent designated by the dealer.

IV. Abandonment of a franchise for more than two weeks by the dealer shall constitute waiver by the dealer of any rights under this section.

339-C:5 Repurchase by Supplier upon Termination. In the event of any termination, cancellation or refusal to renew, whether by mutual agreement or otherwise, a supplier shall make or cause to be made an offer in good faith to repurchase from the dealer at then current wholesale prices any and all merchantable products purchased by said dealer from the supplier, provided however, that in such event the supplier shall have the right to apply the proceeds against any existing in-

debtedness owed to him by the dealer and further provided that such repurchase obligation is conditioned upon there being no other claims or liens against such products by or on behalf of other creditors of the dealer. Any deposit held by the supplier is to be returned to said dealer within one hundred twenty days from the date of termination, cancellation, or refusal to renew the agreement or lease, in the event of no prior claims or liens.

**339-C:6 Dealer Trade Associations.** No supplier shall hinder, coerce or threaten any dealer for the purpose of preventing him from joining any trade association made up of dealers. Dealers shall have a right to select bargaining agents to negotiate and deal with suppliers on matters having to do with their supplier-dealer relationship. Suppliers shall be obliged to bargain in good faith with agents so selected by the dealers. Such bargaining activity shall be pursued to the maximum extent permitted by law.

**339-C:7 Dealer's Action for Damages; Attorney Fees.**

I. A dealer may bring an action for damages sustained as a result of:

(a) Failure to make such disclosures as are required in RSA 339-C:3, or

(b) Failure to make an offer in good faith to repurchase as required in RSA 339-C:5; or

(c) Wrongful termination of or refusal to renew his agreement as set forth in RSA 339-C:4; or

(d) Any violation of RSA 339-C:6.

II. The remedy provided for in this section is in addition to all other remedies available under contract or provided by law. If the court finds that the violation of this chapter has been wilful the court may allow reasonable attorney fees.

**339-C:8 Void Agreement Provisions.** Any of the following provisions in an agreement or lease, if one is included, whether oral or written, between a supplier and dealer, shall be void as against public policy:

I. Provisions requiring a dealer to take part in any advertising or promotional campaigns which will require the dealer to accept any signs, posters, stamps, tickets, gifts, bonuses, premiums, or any other promotional items; or



II. Provisions requiring a dealer to restrict the time spent on the repair and maintenance of automobiles in the course of business; or

III. Provisions requiring a dealer to purchase any products of the supplier other than gasoline. The dealer may, however, agree to accept such products on consignment, but not exclusive as to like products; or

IV. Provisions requiring a dealer to assent to any release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this.

339-C:9 Limitation of Actions. No action may be brought under this chapter for a cause of action which arose more than one year prior to the date such action is brought.

2 Effective Date. This act shall take effect sixty days after its passage.

Sen. JACOBSON: We heard this bill today and there are a lot of complex situations in terms of dealers and suppliers and sub-suppliers which we could not deal with in this session. What we have done is put in those parts on which there was general agreement among dealers and suppliers. If you will look at the original bill, the first amendment appears in 339-C:3 III. The original bill said "any legally binding commitments for the sale, demolition or other disposition of the location." The amendment reads "Any legally binding commitments for the sale, demolition or other disposition of the location in effect prior to the termination date of the agreement." The suppliers wanted this because they wanted to have the opportunity to make some agreements after this is over so that what it does, it limits it to those agreements they have made for some disposition of the building prior to the agreement that is made with respect to the contract of dealer and supplier.

Then in IV, where it says, "The training programs, if any, and the specific goods and services the supplier will provide" and the amendment adds "without cost to the dealer." So that these items are known to the person before an agreement is made.

In the original bill, there is a whole process that relates to the courts. We have struck that process out. In the amendment, you will see that paragraph I eliminates that process. Then

there is added to the amendment, "a supplier shall not impose any conditions on a dealer which are not stated in the agreement between the parties." That seemed to be the big rub—that they would come and say, you have to do this. We didn't do that in the agreement. Well, you have to do it anyway. And so this amendment adds it so that each dealer is protected against incursion of any additional conditions after the agreement is made.

The original bill section VI is now number V. The companies argued that the original bill did not specify any specific time. The amendment says that abandonment of a franchise "for more than two weeks" by the dealer shall constitute waiver by the dealer of any rights under this section.

There did not seem to be any objection to the repurchase phrase so that stays in. On the dealer trade association, the big problem was over the issue of collective bargaining. There were many quotes from many learned lawyers about the Sherman Anti-Trust Act, the Clayton Anti-Trust Act, the Patman Act and the whole series. The general feeling was that a dealer and dealers in combination could not act as a collective bargaining agent. So that aspect is taken out.

339-C:7 remains in. No one had any great problem with that.

We left in also 339-C:8. The oil companies made some objections to 339-C:8 but they did not seem to be really that important.

Then, we struck out 339-C:9—Price Discrimination in Sale to Dealer. After the discussion took place, even the dealers thought that would raise a problem. Under the present situation, if a dealer is selling gas and another dealer moves in across the street and cuts the price 10¢, his supplier will reduce the price of his gasoline to meet the competition. If the section in this bill were to stand, it would mean that the price would have to be changed throughout the entire State. And so that the people who are closest to the suppliers would have to carry the burden of those who are furthest away from the suppliers. In the discussion, there seemed to be an agreement that this was not a good section of the bill and it has been struck.

Just to summarize—I think that what the amendment does is it takes the first steps toward establishing the rights of gaso-

line dealers in relationship to oil companies. It is not a perfect thing and there may be some rubs. But I have always been of the opinion, let's get something on the books; let's see how it works and, if it doesn't work, it can be amended. It is not that far to the 1975 Session.

Sen. POULSEN: I rise in support of both the bill and the amendment. This is somewhat similar to the bill of rights we had for automobile dealers last year. It has worked out well for them and I am sure this will for the gasoline dealers.

Sen. JOHNSON: I rise in support of the amendment offered by Senator Jacobson. We sat through a long hearing this morning and he has done an excellent job of reducing the bill down to where it is workable legislation.

Sen. BLAISDELL: Since every member of the Committee has spoken except Senator Preston, I would like to be on record as in favor of the Committee amendment.

Sen. PRESTON: I am also in favor.

Amendment Adopted.      Ordered to Third Reading.

### **SB 23**

relative to planning boards. Ought to pass with amendment. Senator Jacobson for Executive Departments.

### **AMENDMENT**

Amend the title of the bill by striking out the same and inserting in place thereof the following:

#### **AN ACT**

relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

Amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Consolidation of Regional Planning Commissions. Amend RSA 36:46, as inserted by 1969, 324:1, as amended, by inserting after paragraph II the following new paragraphs:

II-a. Two or more existing regional planning commissions in the same specific planning region, as delineated by the office of state planning, may by majority vote of the representa-

tives of each existing commission create and form a new cooperative regional planning commission; and may by like vote grant to any such new cooperative commission all the duties, powers and authority granted to regional planning commissions by RSA 36; and by like vote any existing commission, which has voted to create and has become a member of any such new cooperative commission, may vote to dissolve any such newly created cooperative commission and upon such vote the newly created cooperative commission shall be dissolved and its existence shall terminate. The members of the new cooperative commission shall determine by the adoption of by-laws thereof what the relationship between the new and existing commissions shall be.

II-b. In the event a cooperative regional planning commission is created pursuant to paragraph II-a, the members thereof shall be all the representatives on the existing commissions which have created said cooperative commission and the following provisions shall apply to said members:

(a) Representatives on the existing regional planning commissions shall serve out the remainder of their terms as members of the newly created cooperative regional planning commission;

(b) Vacancies on the newly created cooperative regional planning commission shall be filled in accordance with paragraph III;

(c) Appointment of representatives and alternate representatives on the newly created cooperative regional planning commission shall be made in accordance with paragraph III.

3 Effective Date. This act shall take effect upon passage.

Sen. JOHNSON: I would like to speak to the amendment. The amendment is enabling legislation to try to straighten out a small flaw in the consolidation of the existing Regional Planning Commissions into the new smaller districts which was kicked off by the Executive Order of about three years ago. Ever since that time we have been trying to comply and make the thing come out right. The original law which is still in there and says two or more existing municipalities may combine together to form a regional planning commission. Basically the words "regional planning commission" are inserted in the same idea. So two or more existing regional planning commissions

in the same planning region as delineated by the Office of State Planning which will be in the new six districts may, by a majority vote, create and form a new regional planning commission. It then goes on and also it is there that they may vote to dissolve any newly created commission. I believe this will help the planning commissions along on the road to getting the newer larger regions in order. I strongly urge the passage of the amendment.

Sen. JACOBSON: I would like to explain the original bill, if I may. The original bill corrects an error which appears in the RSA. By the passage of two bills last time a conflict existed. The first bill passed and said, if the city had a conservation committee one member from that conservation committee must be a member of the planning board. Then there was another bill that passed that said that on a city planning board, no member of the planning board could hold any other office. So that created a conflict. Now this bill corrects that conflict and says that no member of a city planning board can hold any other office except that one member of the conservation commission shall be a member of the planning board.

Amendment Adopted.      Ordered to Third Reading.

## **SB 24**

authorizing cities and towns to grant franchises for cable television systems, to regulate the rates charged to their customers, to regulate the quality of service rendered, and to regulate the quality and quantity of locally-originated programs. Ought to pass with amendment. Senator Jacobson for Executive Departments.

## **AMENDMENT**

Amend the title of the bill by striking out same and inserting in place thereof the following:

### **An Act**

authorizing cities and towns to grant franchises  
for cable television systems.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 New Chapter. Amend RSA by inserting after chapter 53-B the following new chapter:

## Chapter 53-C

Franchising and Regulation of Cable  
Television Systems by Cities and Towns

53-C:1 Definitions. As used in this chapter unless the context clearly indicates otherwise:

I. "Cable television system" means the service of receiving and amplifying programs broadcast by one or more television or radio stations and distributing such programs by wire, cable, microwave or other means, whether such means are owned by, or leased to persons who subscribe to such service. Such system shall not include a master antenna television system.

II. "Master antenna television system" means a cable television system which serves only the residents of one or more apartment dwellings under common ownership, control or management, and any commercial establishment located on the premises of such apartment house and which transmits only signals broadcast over the air by stations which may be viewed normally or heard locally without objectionable interference, and which does not provide any additional service over its facilities.

III. "Franchising authority" means in the case of a city, the city council, and in the case of a town, the selectmen, when authorized by an annual or special town meeting.

IV. "Municipality" means any city or town.

V. "Person" means any individual, partnership, corporation, municipality or other legal entity.

53-C:2 Authority to Grant Franchises and Establish Fees Thereof. Any franchising authority is hereby authorized to grant franchises and establish the fees thereof for the use of the municipality for the installation and operation of cable television systems, in accordance with the provisions of this chapter, within the geographical limits of its respective town or city and to rescind or amend any such franchises in like manner.

53-C:3 Franchise Required. No person shall construct, commence construction, or operate a cable television system in any municipality without first obtaining a written franchise from the franchising authority of each municipality in which such system is installed or to be installed.

2 Existing Operations. The provisions of RSA 53-C, as inserted by section 1 of this act, shall not apply to any cable television system which is in operation as of the effective date of this act, or to any cable television system which has substantially completed the installation of equipment and facilities as of such date, until six months after such effective date.

3 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: As the Committee reviewed SB 24, it felt that it would be impossible to study the equity of all the rules and regulations and various other prescriptions that are in the bill. However, it recognized the need to establish the franchise authority in cities and towns. What the amendment in effect does, it keeps the authority sections in the bill and strikes all else. In addition, the amendment grants to the selectmen the franchise authority whenever the town so authorizes the selectmen to hold that franchise authority. That is all the amendment does. It strikes everything except questions relating to the granting of authority and licenses for cable television.

Sen. BRADLEY: I received a very lengthy copy of an analysis of the original bill from Attorney Snow. I did not attempt to digest it. But has this bill met or dealt with the objections that he had?

Sen. JACOBSON: I don't recall all of the objections he had, but I would assume it met 99% of them.

Sen. BRADLEY: I am just curious — has he agreed to this particular proposal or do we know the position of the people he is representing?

Sen. JACOBSON: My colleague on the committee gave me a note from Attorney Snow which relates to the question about statutes and regulations being consistent with the federal government. All of that problem has been taken out of the bill. It simply grants to the city or to the town the authority to give a cable television franchise and charge fees for it. This was at the request of Attorney Morang who said he could not find anything in the statute that granted the City Council in Keene the authority to grant the franchise in the first place. The other questions about regulations and minimum contents of the franchise, criterion for issuing the franchise and all of that is out of the bill.

Sen. LAMONTAGNE: HB 983 has now been referred to a committee for study and, therefore, the committee and the cable TV people have been meeting and have been working on this bill to make its recommendations for the 1975 session. It is my understanding that there has been a great deal of work that has been done by this committee and by these people who are trying to work out a bill that will meet with the federal standards as well as some of the recommendations in this bill here. Since there has been a lot of work done and they are working and trying to make their recommendations, I would only think this would be fair to refer this to the same committee for a continuing study to make the report to the 1975 session. I would so move that this be sent to a study committee.

Sen. BLAISDELL: Do you know that Representative Ethier spoke before the Committee this morning and asked that a piece of legislation such as the committee is proposing be passed so that a vehicle could be passed over to the House.

Sen. LAMONTAGNE: I am not aware of that. But I am aware of what my people want in Berlin. They have seen me and this is what they asked me to do and they told me of the work they have been doing here with the special committee making this study. And that is why I have done this, because I have been asked to do this as a representative of my people.

Sen. BLAISDELL: You read the bill which Senator Trowbridge, Senator Green and myself proposed. Were you in agreement with that bill?

Sen. LAMONTAGNE: I have no disagreement with it because I had proposed the same thing myself back about four or six years ago. I was the first one who brought up the bill. But the thing is, since there is going to be a gentlemen's agreement that the cable TV people are going to work along with the legislative committee, I don't feel it should be disturbed.

Sen. TROWBRIDGE: I rise in support of the amendment and I would hope you would turn down any motion to send this to any further study. The Federal Communications Commission has put out its regulations. Those regulations say the cities and towns must have some franchising authority in order for the dual regulation to work. The City of Keene is faced now with trying to make a change in the lease arrangement they have on the wires and they have no authority to make that change in the



lease. All this bill does—it is not the whole bill that Senator Lamontagne talks about—but it gives them the statutory authority to act. And I think that the cable TV people, as we well know, will send every bill that ever pertains to cable TV to study further. That has been their action. I have been here since 1967 and I have worked on three cable TV bills all of which have either been killed or sent to study. So, now I am asking you to take this very simple amendment, for which I compliment Senator Jacobson for taking the grist out of the mill here—and at least give these cities and towns who are responsible under the Federal Communications Act for having a franchise, give them the authority to grant franchises. There is no big deal about it. This is a small part of the whole problem.

Sen. GREEN. I rise in support of the amendment. It is my understanding the study committee will be concerned mainly with the regulatory aspects. The regulation of cable TV has nothing to do with the bill as it is now amended. The amendment simply says cities and towns will have the right to grant franchises.

Sen. JOHNSON: I rise in support of the amendment. Senator Jacobson did an excellent job of digging the heart right out of it.

Sen. LAMONTAGNE: Berlin, New Hampshire was the first city to ever adopt a cable TV or service for its people. We have been operating all these years and we have never had any trouble as far as franchises at all. We granted permission to one cable TV—Paper City TV—and in fact it has just changed names because another company bought them out. I did not see any problem at all. If Keene is having a problem then I don't know why. Back many years ago I was a member of the City Council when this cable TV was adopted so I don't know why they can't do the same as we did in Berlin.

Amendment Adopted.      Ordered to Third Reading.

Senator Lamontagne recorded in opposition to SB 24.

## COMMUNICATION

### OPINION OF THE JUSTICES

The following Resolution was adopted by the Senate on

February 26, 1974 and filed with the Supreme Court on the same day:

### SENATE RESOLUTION

*Whereas*, as of December 1, 1973 the resignation of former Commissioner of the Department of Health and Welfare Gerard Zeiller became effective; and

*Whereas*, said Commissioner has vacated his office and the authority and responsibility to administer and direct the department is vacant; and

*Whereas*, RSA 126-A:4 provides the Advisory Commission of the Department of Health and Welfare shall nominate two candidates for the office of Commissioner of Health and Welfare; and

*Whereas*, the Advisory Commission has nominated and presented to the Governor and Council their nominees for said office; and

*Whereas*, the Governor and Council have refused to appoint a Commissioner from said nominees and as a result a conflict exists between said Advisory Commission and Governor and Council; and

*Whereas*, the Governor and Council adopted a resolution for an advisory opinion of the Supreme Court on this matter December 5, 1973; and

*Whereas*, the Supreme Court rendered said advisory opinion allowing for the appointment on a temporary basis of a designated person to handle the financial affairs of the Department in a limited manner; and

*Whereas*, said opinion granted said authority "only for a temporary period during the present emergency situation created by the existing conflict between the Governor and Executive Council and the Advisory Commission"; and

*Whereas*, the conflict between the Advisory Commission and the Governor and Council has continued to the present time; and

*Whereas*, until said conflict is resolved, there is no individual serving in the capacity of Commissioner of the Department of Health and Welfare with full power and authority to effectively

monitor the expenditure of appropriated funds or administer the affairs or promulgated policy of said department; and

*Whereas*, the Senate has before it substantial appropriation bills which authorize the said Department to expend substantial sums of money; and

*Whereas*, the Senate is of the opinion that unless this conflict or impasse is resolved expeditiously, a most solemn occasion is created in that great harm and damage will be done to citizens of the State and to the said Department; and

*Whereas*, the Senate has before it for consideration SB 25, An Act providing for the nomination and appointment of the commissioner of health and welfare and directors of divisions of health and welfare by the governor and council; and

*Whereas*, the best interests of the State and its citizens will be served by a commissioner of health and welfare being expeditiously appointed without any further legislation.

*Now Therefore be it Resolved:*

That the Justices of the Supreme Court be respectfully requested to give their opinion upon the following questions:

1. Is the Governor and Council required to appoint to the office of Commissioner of Health and Welfare one of the two nominees nominated by the Advisory Commission for nomination to said office?

2. If the answer to the first question is affirmative, what is the time limit within which the appointment must be made?

*Be It Further Resolved:*

That the President of the Senate transmit seven copies of this Resolution to the Clerk of the Supreme Court for consideration by said court.

The following Answer was returned:

The undersigned justices of the supreme court make the following answers to your inquiries filed in this court on February 26, 1974, with reference to Senate bill 25, and procedures to be followed with respect to the appointment of a commissioner of health and welfare. If our answer is to be of assistance, time limitations prevent extensive review of considerations leading to opinions here expressed. Your questions relate to matters

with which Senate bill 25 is concerned, and the bill is currently before you for consideration. We deem it a proper occasion for an advisory opinion upon the assumption that you will thereby be assisted in the performance of your legislative duties. *Opinion of the Justices*, 110 N.H. 359, 266 A.2d 823 (1970); *Opinion of the Justices*, 102 N.H. 183, 152 A.2d 870 (1959); see *Opinion of the Justices*, 67 N.H. 600, 601, 43 A. 1074 (1892).

Your resolution states that pursuant to RSA 126-A:4 the advisory commission on health and welfare has nominated two candidates for the office of commissioner of health and welfare, and that the Governor and Council has refused to appoint from these nominees, so that a failure of appointment has resulted. You ask, first: "Is the Governor and Council required to appoint to the office of Commissioner of Health and Welfare one of the two nominees nominated by the Advisory Commission for nomination to said office?"

In a recent advisory opinion returned to the Governor and Council, we gave our opinion that the "mandatory language of RSA 126-A:4 (Supp. 1972)" compelled an answer that the Governor and Council may not designate an individual to serve in the capacity of commissioner. *No. 6810 Opinion of the Justices* (December 7, 1973).

The "mandatory language" in question provides in part that the commissioner "shall be appointed by the governor and council from two or more nominees . . . nominated by the advisory commission established by this chapter." RSA 126-A:4 (Supp. 1973). The legislature may properly prescribe how this appointment shall be made. N.H. CONST., pt. II, art. 5; *Opinion of the Justices*, 110 N.H. 359, 266 A.2d 823 (1970), *supra*; *No. 6832 O'Neil v. Thomson* (February 28, 1974); *Seidenberg v. New Mexico Bd. of Medical Examiners*, 80 N.M. 135, 452 P.2d 469 (1969); *Lanza v. Wagner*, 11 N.Y.2d 317, 183 N.E.2d 670, 229 N.Y.S.2d 380 (1962); see Annot., 97 A.L.R.2d 361 (1964).

The legislative history of chapter 126-A, referred to in the cited opinion to the Governor and Council, shows that section 4, as originally enacted in 1961, provided for appointment by that body simply "upon nomination by the advisory commission". Laws 1961, 222:1. The section in its present form provides for appointment from two or more nominees or if agree-

able to the governor, a lesser number", a provision which was inserted in 1965 (Laws 1965, 352:1), as a method calculated to "allow two choices to be made, with the person making the appointment being able to choose from the two, or he may waive this". N.H.S. Jour. 1189 (June 30, 1965). It fairly appears both from the legislative history and the language of the statute, that it was intended that the Governor and Council should appoint from one or more nominees submitted by the advisory commission.

The answer to your first question is that the Governor and Council is required to appoint one of the two nominees nominated by the commission.

Your second question is: "If the answer to the first question is affirmative what is the time limit within which the appointment must be made?"

RSA 126-A:8 (Supp. 1973) suggests the desirability of avoiding delay in excess of thirty days in the appointment of commission members in order "that there shall be the least possible period of less than full membership". In contrast RSA 126-A:4 (Supp. 1973) contains no time limitation within which either nominations or an appointment of the commissioner shall be made. In the absence of any such limitation of time in section 4, the law would imply the limitation of a "reasonable time". See *Newcomb v. Ray*, 99 N.H. 463, 114 A.2d 882 (1955). Although discretion in choosing between nominees is vested in the Governor and Council, and they have a negative upon each other (N.H. CONST., pt. II, art. 47), the obligation to appoint rests upon both.

The determination of a reasonable time within which that obligation shall be fulfilled is to be made by them in the light of the need for continuity in the office in question, and the responsibilities of the appointing authorities "for the faithful execution of the laws" (N.H. CONST. pt. II, art. 41) and "for ordering and directing the affairs of the state". *Id.* pt. II, art. 62.

The answer to your second question is that the time limit within which the appointment must be made rests in the discretion of the Governor and Council, to be decided in the light of articles 41 and 62 *supra* and in accordance with the dictates of good conscience and the public interest.

Since the impasse between the commission and the Governor and Council has existed for a period of three months their responsibilities suggest that the end of a reasonable time for making an appointment is near at hand. *See No. 6810 Opinion of the Justices* (December 7, 1973) *supra*; RSA 4:3.

Frank R. Kenison  
Laurence I. Duncan  
Edward J. Lampron  
William A. Grimes  
Robert F. Griffith

March 6, 1974.

### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: I had another bill I was asked to introduce before this Senate in reference to the Berlin, New Hampshire industrial development bond. It seemed to have been a ruling from the court that it was unconstitutional and this was supposed to have been a correction to meet with the recommendations of the court. I have talked this matter over with the Chairman of the Rules Committee and he started to go over the bill and found some errors in it. I want the record to show that I have been waiting for my advisors to come over and make the changes and it has not been done. Therefore, if the bill did not pass today, or I did not make the attempt to introduce it, it is because I have not had the word on the corrections and, therefore, I could not do it.

There was another bill that was supposed to have been introduced by me—and as you know we have been very busy today. I am sure it was necessary for all of us to put in our day right here and not leave here because there was a lot of important business that came up today. That bill was the truck bill which was supposed to have been introduced in this session for increased weights that has been asked by all of these truck drivers holding their meetings. I want the record to show I was prepared to introduce the bill. As long as I had the bill in my hand and I knew what they wanted. The information has not been given to me and, therefore, I could not supply it to the Office of Legislative Services to put it into a bill so that it would be presented. But I want the record to show I was prepared to do my work as I promised I would do, but without the material, it is impossible for me to do it.

## HOUSE MESSAGE

INTRODUCTION OF HOUSE BILLS AND  
HOUSE CONCURRENT RESOLUTIONS

## First and Second Reading and Referral

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes. Finance.

HB 3, relative to establishment of a food stamp program and making an appropriation therefor. Public Health, Welfare and State Institutions.

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance. Public Health, Welfare and State Institutions.

HB 5, relative to the office of energy administrator. Executive Departments, Municipal & County Governments.

HB 11, to increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric aids at the New Hampshire hospital and making appropriations therefor. Finance.

HB 15, relative to redistricting the ward lines of the city of Laconia. Executive Departments, Municipal & County Governments.

HB 17, increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor. Finance.

HB 18, requiring local approval prior to approval of site plans for oil refineries. Resources and Environmental Control.

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public and making an appropriation therefor. Public Works & Transportation.

HB 32, relative to the commission and taxes on pari-mutuel pools at dog tracks. Ways & Means and Administrative Affairs.

HB 33, relative to the Winnepesaukee River Basin Control; and providing for continuation of the study committee on the water supply and pollution control commission. Resources and Environmental Control.

HB 34, relative to energy facility evaluation, siting, construction and operations and providing for a tax on refined petroleum products. Resources and Environmental Control.

HB 35, providing for twenty years retirement for members of group II under the N. H. Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor. Finance.

HCR 2, establishing a joint committee to study the railroad conditions and related matters in the state of New Hampshire. Public Works & Transportation.

HCR 3, relative to the protection of the New Hampshire Fishing Industry. Recreation & Development.

Senator Foley moved the Senate do now adjourn from the Early Session, that the business of the Late Session be in order at the present time, and when the Senate adjourns it be until Tuesday, March 12, at 1 o'clock.

Adopted.

## LATE SESSION

### SUSPENSION OF RULES

Senator Foley moved the Rules of the Senate be so far suspended as to permit all bills ordered to Third Reading to be read a third time by this resolution, all titles of bills and captions of resolutions be the same as adopted and they be passed at the present time.

Adopted.

### Third Reading and Final Passage

SB 1, providing for open and honest political campaigns



in New Hampshire by requiring greater accountability and full disclosure of campaign contributions and expenditures; and protecting party loyalty by disqualifying defeated primary candidates from being nominated by petition under certain circumstances.

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

SB 6, relative to landlord-tenant relations.

SB 7, relative to capital improvements to the Mount Washington summit and making an appropriation therefor.

SB 9, legalizing special town meetings in Wilmot and Pittsfield; and the Seabrook School District meeting.

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency.

SB 11, establishing a state historic preservation office and making an appropriation therefor.

SB 12, to further protect the rights of mobile home owners by requiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks and by requiring that tenants be given copies of such rules and regulations.

SB 17, relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye Harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

SB 18, providing additional cost of living increases for retired members of the N. H. Teachers' Retirement System, the N. H. Policemen's Retirement System, the N. H. Firemen's Retirement System, the N. H. Retirement System and the State Employees Retirement System, and making an appropriation therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of prefund-

ing to be paid out of escrowed funds derived from an interest assumption change.

SB 19, specifying procedures for termination of residential gas or electric services.

SB 20, providing for regulation of franchise agreements for the sale of gasoline.

SB 21, establishing a commission on children and youth.

SB 22, establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state.

SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

SB 24, authorizing cities and towns to grant franchises for cable television systems.

SB 26, providing for retirement benefits for supreme and superior court justices.

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

SB 28, to establish standards of care and treatment of alcoholics, intoxicated persons, and drug dependent people.

SB 29, exempting enterprises selling spirits and wines to the state of New Hampshire from the business profits tax.

SJR 2, establishing an interim committee to study oil companies and other energy suppliers.

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election, and legalizing the election of delegates to the constitutional convention from the old wards of said city.

Adopted.

Senator Trowbridge moved the Senate adjourn at 8:55 p.m.

Adopted.

*Tuesday, 12Mar74*

The Senate met at 1 o'clock.

### INTRODUCTION OF GUESTS

Attorney William Green, former Deputy Attorney General and the Honorable Kenneth Cowan, former Director of the Inheritance Tax Division.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Teach us, Oh Lord — patience!

For we often find that to wait is harder than to work. While we are waiting, help us to see that some of our troubles come by refusing to really look at all sides of the situation — but blindly hold out, for our own interpretations!

We are all too familiar with “black looks, scornful looks and unbelieving looks” — so give us help to change them into discerning and understanding looks — that will cast aside prejudice and clear our hearts and minds so we may see more clearly.

We pray for good sight and good sense. Amen.

The Pledge of Allegiance was led by Senator Ferdinando.

### SENATE RESOLUTION

*Know All Men By These Presents That Whereas*, Kenneth L. Cowan of Concord, former Director, New Hampshire Division of Inheritance Taxes, retired from that position November 1, 1973, after completing 26 years of dedicated and distinguished state service; and

*Whereas*, Kenneth L. Cowan, who began his work for the State of New Hampshire in 1947 as a Junior Auditor, and quickly proved his superior talents and proficiencies as an auditor, was named Director of the Division of Inheritance Taxes in 1951 on the recommendation of Deputy Attorney General William S. Green; and

*Whereas*, his outstanding capabilities as an able and just administrator earned him the professional admiration and re-

spect of all organizations with whom he undertook negotiations, including especially the New Hampshire Bar Association, which in 1968 awarded him an Honorary Life Membership, and also the members of the General Court, as well as the public of New Hampshire;

*Now Therefore*, the New Hampshire Senate takes honor and pleasure in presenting this

### CERTIFICATE OF COMMENDATION

to

THE HONORABLE KENNETH L. COWAN

in appreciation for his many years of exemplary service to the people and the State of New Hampshire, and further, extends its best wishes to him and to his gracious wife, Frances, for many more years of active and fruitful happiness in their retirement.

CHAIR: I have the honor of presenting this Resolution to Mr. Cowan. It is a pleasure to present this certificate on behalf of all twenty-four members of the Senate and in the presence of the man who got you started down the road to this honor, former Deputy Attorney General Bill Green.

Mr. COWAN: Thank you, President Nixon. Bill Green, I want to thank you, as I have many times before. If it were not for you, I might have retired as a municipal budget auditor.

CHAIR: Attorney Green is the fellow who got Ken started. He is former Chairman of the State Board of Education, former Deputy Attorney General, presently Chairman of the Board of New Hampshire College in Manchester, Manchester's Outstanding Citizen of 1970. I would appreciate having you speak to the occasion of having gotten Ken started.

Mr. GREEN: Both as a friend and as a lawyer, I am proud of Ken's record, both of the recommendation and the way he has performed in the highest tradition of public service. I think every lawyer and every administrator who has ever worked with Ken knows that he performed his duties in an even handed and impartial way and in the highest tradition of what we consider to be the best in state administration in New Hampshire. I am proud to be here today for that reason. Ken, the best of everything to you in the future.

### HOUSE MESSAGE

The House of Representatives has admitted and passed

bills with the following titles under suspension of the joint rules, in the passage of which it asks the concurrence of the Honorable Senate:

HB 36, permitting the sale of milk in three quart containers. Public Health and Welfare and State Institutions.

HB 37, to provide for the repeal of the law tending to prohibit hitchhicking. Judiciary.

Referred to Senate Rules Committee under Joint Rules.

### MOTIONS TO VACATE

Sen. Porter moved the referral of HB 18 and HB 34 to Resources and Environmental Control be vacated and they be referred to a Joint Committee of Resources and Environmental Control and the Seacoast Delegation consisting of Sens. Brown, Johnson, Preston and Foley.

Adopted.

Sen. PORTER: I would also, at that same juncture, because there is a tax portion of the bill, included, suggest that the Chairman of the Ways and Means Committee be invited to sit in with us at this hearing. The hearing is scheduled for tomorrow night in Portsmouth for the first part and the recessed hearing will continue in the State House here a week from today at 10 o'clock. So, there will be two separate hearings.

CHAIR: Is it the purport of your suggestion that the Chairman of the Ways and Means Committee be made a part of the committee or be invited to attend the hearing?

Sen. PORTER: I think it is satisfactory at this point that he be just an invited guest. I have no objection to his being a part of the committee.

CHAIR: He not being here today, I will see that your suggestion is communicated to him.

Sen. Poulsen moved the referral of HB 7 to Public Works and Transportation be vacated and that HB 7 be assigned to a Joint Committee of Public Works and Transportation and Executive Departments, Municipal and County Governments.

Sen. POULSEN: HB 7 contains ramifications that could have to do with zoning, joint sewers and towns cooperating. I

think there is an amendment that will even include bussing. I think you get into the realm of zoning and regional planning with it.

Adopted.

Sen. Jacobson moved the referral of HB 24 to Executive Departments, Municipal and County Governments be vacated and that HB 24 be referred to Public Works and Transportation.

Sen. JACOBSON: This bill has to do with boat transportation, boat registration, decals and a great deal of other things that really are in the purview of the Committee on Transportation.

Adopted.

Sen. POULSEN: I move the Senate accept the schedule of the House which has been offered to us. This is different from our own only in the addition of one Thursday which is the 28th of March. We would meet today and tomorrow, next Tuesday and Wednesday and then, the following week, we would meet Tuesday Wednesday and Thursday; Thursday being the first day for Committee of Conference. It gives you the advantage of having the weekend to work over things and still have the following legislative day, April 2, to be the last day for Committees of Conference; then, the week gap to the 15th day. The Rules Committee has worked over this with the House and is in favor of it and recommends that the Senate adopt it.

CHAIR: I would like to say this is a two-way street and you may be aware of the fact there is a notice posted that the House Rules Committee is meeting tomorrow at 10 o'clock in Room 13 for a public hearing in respect to all of the Senate Bills which were introduced to us just prior to the adoption of the Joint Rules. I understand from the Chairman of the Joint Rules Committee, the Chairman of the House Rules Committee and the Majority Leader of the House, who is here — the Distinguished Representative from Gilman Iron Works, George Roberts — that the Senate Bills enumerated in the Notice of Hearing for March 11, which I just now described, will be referred to the appropriate House committees immediately following the public hearing tomorrow morning.

Rep. ROBERTS: That is correct — at 11 o'clock.

Adopted.

## PERSONAL PRIVILEGE

Sen. LAMONTAGNE: This is no criticism to the press but I certainly would like to introduce myself because I notice on my desk here — I don't know what newspaper it was — that I have been called "Gloria" and my name is "Laurier" and not "Gloria." It says that "those favoring the death sentence were Gloria A. Lamontagne" and I would like to have it so that it says, among those favoring the amendment was *Laurier* Lamontagne.

Sen. SPANOS: Is this newspaper clipping from the same newspaper that takes delight in making up names for many of us Senators?

Sen. LAMONTAGNE: I could not very well tell you. I can't tell whether it is the Manchester paper or the Concord paper or any other town paper. I don't know who brought this to my attention, but it was left on my desk.

## PERSONAL PRIVILEGE

Sen. S. SMITH: I have always been very friendly toward educational television and the New Hampshire Network. It has been brought to my attention that last night my picture appeared on Channel 11 at the wrong time. My picture was confused with that of Jay McDuffee who is the Governor's Press Secretary and I want to assure you there is no similarity between the two people.

Sen. JACOBSON: I was wondering if that change made you a spokesman for the Governor?

Sen. S. SMITH: I hardly think it could be interpreted that way.

## COMMITTEE REPORT

Sen. Poulsen moved the Senate adopt the Report of the Rules Committee that HB 36 and HB 37 be accepted for introduction in the Senate and that they be placed on second reading and referral to appropriate committees.

## PARLIAMENTARY INQUIRY

Sen. JACOBSON: Were these House Bills adopted by the House after the adoption of the Joint Rules?

CHAIR: These bills were admitted to the House after the adoption of the Joint Rules, I believe through the House Rules Committee.

Sen. JACOBSON: I am heartily in support of this and I hope that the Senate will enjoy a similar reciprocity.

Adopted.

## INTRODUCTION OF HOUSE BILLS

### First and Second Reading and Referral

HB 36, permitting the sale of milk in three quart containers. Public Health, Welfare and State Institutions.

HB 37, to provide for the repeal of the law tending to prohibit hitchhiking. Judiciary.

Sen. Foley moved that the Senate do now adjourn from the Early Session and that when the Senate adjourns, it be until tomorrow at 1 o'clock.

Adopted.

## LATE SESSION

Sen. Provost moved the Senate adjourn at 1:45 p.m.

Adopted.

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*Wednesday, 13Mar74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Lord, God, help us to deliberately and solemnly dedicate our minds, our wills, our strength and our speech to Thee.

We hope, by doing so, we can devote our limited time to the State and Nation's needs, hopefully seeing the uniting of all peoples of the Earth in Justice-Peace-Love and Understanding!

We ask all these things in Thy name. Amen.



The Pledge of Allegiance was led by Mrs. Eleanor Robinson and Representative Kenneth Tarr.

### LEAVE OF ABSENCE

Sen. Richard Green was absent because of important business.

### ANNOUNCEMENT

CHAIR: I have just been advised by the Majority Leader of the House and the Chairman of the Joint Rules Committee that the House has adopted the Resolution with respect to the schedule we adopted yesterday and also has approved and sent to the appropriate committees all Senate Bills which were the subject of the House Rules Committee hearing at 10 o'clock this morning.

### HOUSE MESSAGE

#### INTRODUCTION OF HOUSE CONCURRENT RESOLUTION

HCR 5, establishing a schedule of legislative days for the remainder of the special session.

Be It Resolved by the House of Representatives, the Senate concurring:

That, both houses of the General Court shall each adjourn from the eighth legislative day to March 19 which shall be the ninth legislative day and thereafter to succeeding legislative days according to the following schedule:

March 20, the tenth legislative day; March 26, the eleventh legislative day; March 27, the twelfth legislative day; March 28, the thirteenth legislative day; April 2, the fourteenth legislative day; and April 11, the fifteenth legislative day.

Referred to Rules Committee.

### SUSPENSION OF RULES

Sen. S. Smith moved the rules of the Senate be so far suspended as to permit immediate action on HCR 5.

Adopted.

## Second Reading

HCR 5, establishing a schedule of legislative days for the remainder of the special session.

Adopted.

## HOUSE MESSAGE

## INTRODUCTION OF HOUSE BILL

## First and Second Reading

HB 2, making appropriations for capital improvements.

Sen. Trowbridge and Sen. Poulsen moved HB 2 be referred to a Joint Committee of Public Works and Transportation and Finance.

Adopted.

## COMMITTEE REPORTS

**HCR 3**

relative to the protection of the New Hampshire fishing industry. Ought to pass. Sen. Preston for Recreation and Development.

*Whereas* valuable coastal and anadromous species of fish and marine life off the shores of the United States are in danger of being seriously depleted and, in some cases, of being extinct; and

*Whereas* stocks of coastal and anadromous species within the nine-mile contiguous zone and three-mile territorial sea of the United States are being seriously depleted by foreign fishing efforts beyond the existing twelve-mile fisheries zone near the coastline of the United States; and

*Whereas* international negotiations have so far proved incapable of obtaining timely agreement on the protection and conservation of threatened species of fish and marine life; and

*Whereas* there is further danger of irreversible depletion before efforts to achieve an international agreement on jurisdiction over coastal and anadromous fisheries result in an operative agreement; and

*Whereas* it is therefore necessary for the United States to

take interim action to protect and conserve overfished stocks and to protect our domestic fishing industry; and

*Whereas* these findings adversely affect the future of the New Hampshire fishing industry, and the health and welfare of its people; Now therefore be it

*Resolved*, by the House of Representatives of the General Court of New Hampshire, the Senate concurring:

That the Congress of the United States is hereby memorialized to enact legislation known as The Studds-Magnuson Bill (H.R. 8665), an act to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry.

Sen. PRESTON: Although this might seem an unimportant piece of legislation and one without controversy, it asks Congress to enact legislation known as the Studds-Magnuson Bill, H.R. 8665, an Act to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect our domestic fishing industry. Other coastal states have passed similar rules. This is designed to act as pending legislation pending the meeting of the "Law of the Sea Conference" in Caracas in June. This is very much needed legislation. Foreign fishing fleets have been systematically raping and depleting our fishing resources. Off the New England coast alone, in this part of the Atlantic there are some 400 vessels out there daily, 120 of them being Russian. This is a 40% greater increase than last year and a 72% increase in the amount of Soviet trawlers in our waters.

A committee has been formed known as the "Save American Fisheries" Committee and are planning a sail to Washington in May to ask our Congressmen directly to support the Studds-Magnuson Bill. Massachusetts, Rhode Island, New Hampshire and Maine have thus far joined this group, soon to be joined by Connecticut for the sail on Washington.

I sincerely urge your unanimous support of this Concurrent Resolution.

Adopted.

## SUSPENSION OF RULES

Sen. Poulsen on behalf of the Rules Committee moved that

Joint Rule 10 be suspended so as to permit introduction and consideration of SB 30 and SJR 3.

### PARLIAMENTARY INQUIRY

Sen. JACOBSON: Does this require two-thirds of those present and voting or two-thirds of the membership?

CHAIR: Two-thirds of those present and voting under Rule 22.

Sen. JACOBSON: As I understand the motion, this is simply to grant the Rules Committee the opportunity to consider these bills for introduction, is that the case?

CHAIR: Yes and to recommend their introduction, that being the desire of the Rules Committee.

Sen. JACOBSON: If this motion should pass by the requisite two-thirds vote, then the Rules Committee will make a recommendation which also must pass by two-thirds or only by a majority?

CHAIR: If the motion to suspend Joint Rule 10 now before you passes by the necessary two-thirds vote, then the Rules Committee intends to make a recommendation as to the introduction of the two bills which, under Joint Rule 12 will require only a majority vote of the Senate. If the Senate, in its wisdom, should pass either one or both of the bills in question, before they could be considered by the House, there would have to be a two-thirds vote of the House suspending Joint Rule 10 and a further two-thirds vote of the House to consider the two bills if the House Rules Committee did not approve the bills; otherwise a majority vote of the House will allow their introduction if they did approve them under Joint Rule 12.

Sen. JACOBSON: As I understand your response — the last one — before we could take any action, the House would have to take a two-thirds vote to suspend the rules and then follow the same procedure before we can take legitimate action. Is that correct?

CHAIR: No, as I understand it we could take all of the action desired to be taken by the Senate and then the bills in question, if affirmatively acted upon by the Senate in accordance with the Rules, would go to the House for purposes of

the House deciding if they wanted to suspend Joint Rule 10. That is the way I understand the procedure.

Sen. PORTER: Should these bills fail to be allowed introduction by the necessary two-thirds, would it not be possible for the Senate Public Works & Transportation Committee to take it upon themselves independently to make the study suggested?

CHAIR: That is a possibility, but the study would have no formal recognized effect and probably no weight in respect to the next legislative session and would not, of course, include the representatives of the American Automobile Association, the Chairman of the Traffic Safety Commission, a representative of the Attorney General's office, and the other officials representing the public interest, as provided for in the committee in SJR 3.

Sen. TROWBRIDGE: Is it possible to consider the two bills separately — consider suspension of the Rules for introduction of SJR 3 which is quite different from SB 30? Could we separate the question?

CHAIR: I will accept a motion to that effect unless there is objection by the Senate.

### MOTION TO DIVIDE

Sen. Trowbridge moved the question be divided so that SJR 3 and the process regarding its introduction be separated from SB 30.

Adopted.

### SUSPENSION OF THE RULES

Sen. Poulsen moved his prior motion be withdrawn and that Joint Rule 10 be suspended so as to permit introduction and consideration of SJR 3 in accordance with Joint Rule 12.

### PARLIAMENTARY INQUIRY

Sen. TROWBRIDGE: Would it not be that if this motion, carries, the bill would be in and could go through our regular processes?

CHAIR: Correct.

Adopted.

## INTRODUCTION OF SENATE JOINT RESOLUTION

## First and Second Reading and Referral

SJR 3, establishing a committee to study highway safety and motor vehicle weight, length and width requirements. (Sen. Lamontagne of Dist. 1 through Rules Committee) — To Public Works and Transportation.

## SUSPENSION OF RULES

Sen. Poulsen moved Joint Rule 10 be suspended so as to permit the introduction and consideration of SB 30 in accordance with Joint Rule 12.

Sen. LAMONTAGNE: I personally feel and hope that this Senate will suspend the Rules so that this bill can have a hearing. We had a meeting with the President which was not a secret. We met with President Nixon in his office and with members of the trucking association and members of the American Automobile Association. I had been asked to take the leadership in this truck bill by the Governor of the State of New Hampshire.

This is an emergency. As you know, since the last session of the General Court not only the people of New Hampshire, but people all over the country have faced a fuel shortage. The fuel shortage has created a problem to the trucking industry. So far as for the boys who are hauling forest products in the northern part of New Hampshire on special routes, as you know, the General Court gave them 90,000 pounds on 5 axles. This was appreciated very much because there could have been some hardship if this bill had not been enacted at that time because the Brown Company was facing a problem of having a shortage of pulp coming in to keep the mill going. But, thank God, the General Court did give us the 90,000 pounds. The 90,000 pounds is working very nicely up north.

Now, this bill does not ask for 90,000 pounds, but it does ask for an increase in weights of approximately 10% and, therefore, it would mean that the 5 axles go from 73,280 to 80,600 pounds. This is below what the forest products are hauling up north — 90,000 pounds.

Personally, I feel that the roads in the southern part of the State are in better condition than what we have up north and,

therefore, if the 90,000 pounds can operate well from the peak of New Hampshire coming from Maine leading into the City of Berlin and from Route 25 up to the City of Berlin and up north, this can work very well. The boys were facing a problem — the independent truckers — along with those who are hauling salt, hauling gravel and wood products and that is on 3 axles. When I am speaking about 3 axles, this is the two wheels, driving wheels, in the front of the truck and then in the back it has 8 wheels which means 8 tires. Therefore, these trucks can only register up to 55,000 pounds. We are asking a 10% increase on that.

At the same time, the trucking industry throughout New Hampshire — and I am speaking about those who are hauling cargo — has been facing a problem of their interchange of tractors to hook on different boxes. These boxes are coming from all over the country and when they come to tie on, some of these trucks have been about 3 inches over the length and then, because of 3 inches and lack of using good common sense because it is enacted into the law, these boys are being picked up because of 3, 4 and 5 inches over. In this bill, we are asking for a 12 inch tolerance so that the arresting officer would have the opportunity of being able to have a little allowance because of this emergency. Now, if this study, is passed, it would give them a chance to make a report back in December 31 of this year so that they could have an early bill in the beginning of the session of 1975.

For this emergency and for this time only, it is only a temporary measure during this emergency to give the study committee an opportunity to be able to review all the laws on highways. This is for reviewing pulp loading sideways which are 102 inches in width and for these trucks that have low pressure tires for which the law gives them 102 inches — and I am talking about widths. At the same time, talking about lengths which right now we have, 33 states have adopted the extra length and they are hauling these extra trailers.

Now all of this would mean that the trucking industry would be under this study committee but it has nothing to do with this bill. The only thing Senate Bill 30 has is an increase in weight on 3 axles for hauling pulp, salt and gravel. Possibly some of them are dump trucks and some of them are just a State body truck. We are asking again for 12 inches tolerance

because some of these trucks when they interchange are beyond the specifications of the State of New Hampshire in its present law, but it would not exceed 12 inches. It would not exceed a 12 inch tolerance. It gives the arresting officer the opportunity of using good common sense and at the same time I would only urge that this is an emergency and, as you know, the trucking industry has been striking all over in many, many states. I feel if this is passed it would certainly stop New Hampshire from facing the same strikes that they have been having in other states. I think this is an emergency. There is no question about it — this is an emergency. And it has nothing to do with the trucking industry. It is not their fault there is a shortage of fuel and at the same time an increase in costs. That increase in cost — and I am going to tell you right now, I want the Senate to know this — that, as far as I am concerned for all these weights and all these matters when I am talking about the trucking industry it has no effect in my trucking industry. My trucks are only small trucks. In fact, I am registering my trucks over the amount of load that I am carrying. So, therefore, I am not involved and I don't want you to feel that this is just a selfish thing on my part. The reason why I am trying to defend these truckers is my experience that I have had since the age of 14 when I first started with my Dad in the trucking business. We had a hard time in those days and the trucking industry is still facing a hard time today in trying to be able to meet their expenses and pay their gas and fuel and make their payments on trucks, which are very, very big, and at the same time, a problem of trying to make a profit so that they can support their families. I don't think that the trucking industry is asking much. This is an emergency. They need your help and I hope you will support SB 30.

Sen. JACOBSON: Do you recall the accident that took place in Boston on the Mystic River Bridge which created a tremendous traffic hazard and cost the life of the truck driver? As I remember, the issue there was the heavy overload on these trucks not because of the roadbed but because of maneuverability and the safety of the vehicle. I notice you did not say anything about that. Is there not a safety factor in this overload factor?

Sen. LAMONTAGNE: Let me say this. What happened in Boston, I want you to know, this was really a freaky accident.



I can tell you that in Milan, New Hampshire we had a car that turned around and hit the abutment and the bridge fell into the water. A car did that. Now the trucks that I am mentioning right now, I would be willing to give this Senate or anyone that wants to have a little demonstration and I would be glad to do it myself in taking any one of those kind of rigs you want me to and I will be willing to turn around and show you that with the additional braking there is in this new equipment, they can stop with their load that they have on and remember I said their load — some of these loads I will admit are more than 55,000 pounds. I can demonstrate that to anyone — that this is a fact. But as far as what happened in Boston, it was really a freaky accident and he happened to have hit the abutment of that bridge and cause all that damage. But again, keep in mind that a car knocked the bridge down into the water up in Milan and the State of New Hampshire had to build a new bridge and it wasn't a truck and, thank God, it wasn't the school bus that went on that bridge.

Sen. JACOBSON: Would you say that the bridge in Milan was comparable in construction to the bridges that are over the Mystic River?

Sen. LAMONTAGNE: No the bridge that was in that accident was a more expensive bridge and there was a lot more traffic on it than the one in Milan.

Sen. JACOBSON: You are asking for a 12 inch tolerance — is that 12 inches on either side or both sides?

Sen. LAMONTAGNE: I am asking for a 12 inch tolerance in the length and not the width. If I asked for a 12 inch tolerance on the width, it would certainly put it over the 102 inches which has been required in previous sessions. And what has already been allowed to those who are hauling forest products. I am not in favor of going over 102 inches in width and I have always said 102 inches and I would be willing to put a good stiff fine. The tolerance of 12 inches is in length and some of these trucks have been taken to court for 3 inches. I say this is lack of using good common sense and, therefore, it is necessary to enact it into law and this would be only through July 1 of 1975.

Sen. SANBORN: At any time that you have spoken on these heavy trucks in the past and again this afternoon when

you made your idea of giving us a demonstration, you keep mentioning new trucks with their improved braking power and I was trying to find desperately in this bill where it excludes old trucks with old inadequate braking power for this heavier weight.

Sen. LAMONTAGNE: I would like to say this. This bill was given a fair hearing and all these matters that you mention — and you are a member of that Transportation Committee — we could correct along with Fred Clarke, Director of the Motor Vehicle Department, and Bob Whitaker and, at the same time, if this bill is given a chance to have a hearing, it would mean the AAA would have the opportunity of coming up there to express their feelings — and I have no objections at all. I feel they are entitled to come before the committee and make their recommendation if they so desire but, at the same time, the committee would have the opportunity of being able to hear the problem that is facing the truckers and the emergency that is facing them.

One more thing that I would like to say to this Senate. This bill originally was intended to amend HB 24. At the meeting we had in the President's office, which I told you was not a secret to anyone, it was felt during that meeting that it was not proper to put it on HB 24. Therefore, as the sponsor I agreed to withdraw the amendment to HB 24 and, therefore, let the two bills presented before you — one is a Resolution and the other one SB 30 — so that it would go on its own merits and also give some of these people the opportunity to be heard.

Sen. TROWBRIDGE: I am going to vote against suspension of the Rules in this case and I want to bring out a couple of facts to you as to whether you really want to deal with this bill on a one year basis.

One of the typical things we have in the energy shortage is that we then take the panic of the energy shortage and use it as leverage to do something that we would never do otherwise. I think it is important to bring out that Commissioner Whitaker has, for the last three or four years, said consistently that the bridges in New Hampshire will not take the weight above the 55,000 pounds. The bridges of New Hampshire on these state highways are owned by or built by the cities and towns, not by the State of New Hampshire, and we have a very limited

bridge aid program. It only takes one year of running these heavier trucks over these bridges which are not built for them for you to come back and face an enormous construction program for rebuilding bridges. That is why I got up and very happily tried to put the question so that we could put in the bill for the study committee, which I think is absolutely necessary, so that I would not have to vote against admitting SJR 3. I am in favor of that. But, at this point, if we get the bill in here and try to pass it at this time, we are going to see that we are going down the road to longer trucks, wider trucks during a period of time and once they have that equipment all rolling, the argument will be made next time for sure — well we have all invested in wider trucks, heavier trucks, longer trucks so now you owe us the right to keep using our wider, heavier and longer trucks. And it is a boot strap operation. I can see it coming and I, for one, am not going to be voting to come in with something that, for one year, will put on the road those kind of trucks that will ruin the standard bridges that we have in this state, putting the burden on the cities and towns to repair them. I think it is a kindness in a way to get the debate over here now rather than waiting to have it come through and kill it later. I know that it is courteous perhaps to suspend the rules. But I just think, at this late date in this session, to bring in a bill like this which is under the guise of energy and then find that what we are really doing is putting the foot in the door, the wedge in, to increase the size of trucks. On a lot of these highways, it just isn't possible. I have to oppose it and I hope that you will too.

Sen. LAMONTAGNE: Can you tell me what repairs have been done to the bridges in the north country since the 90,000 pounds, or even the loads that were greater than 100,000 in the north country?

Sen. TROWBRIDGE: I think you yourself said that the bridges and highways in the north country are in worse shape than they are in the south and one of the reasons they are in worse shape in the north country is that they are running heavier trucks and that is why the southern part of the state has some bridges that don't need to be repaired.

Sen. LAMONTAGNE: When did I say that the bridges up north were in worse condition than the southern part of the state? All the new bridges are built down here.

Sen. TROWBRIDGE: In your opening statement, you said that the highways and bridges in the southern part of the state were better than those in the north country. Of course, those things running in the north country are running on specific routes, as I understand it, which are made to take the pulp, whereas the ones in the southern part of the State are not designed to carry those weights.

Sen. LAMONTAGNE: In my opening remarks, I said that the roads in the southern part of the state and the bridges are in better shape than those up north?

Sen. TROWBRIDGE: Yes.

Sen. LAMONTAGNE: How do you get that I said the bridges up north are in worse shape and what repairs have been done to them?

Sen. TROWBRIDGE: I don't know. You yourself said the one in Milan went down with just a car running into it. I would hope that is not going to happen in the southern part of the State. That is why I am trying to preserve them and do the study to see what the impact really will be.

Sen. LAMONTAGNE: Do you know that the trucks hauling logs and pulp in the northern part of New Hampshire did not go over that bridge?

Sen. TROWBRIDGE: One of the things that is true, and I will bring it out for you, is that the longer trucks — the pulp trucks, the longer ones, I guess they are 12 axles, or how many axles?

Sen. LAMONTAGNE: Some are 5.

Sen. TROWBRIDGE: But the longer ones are not the problem because it distributes the load over a short bridge. The problem with the 3 axle, 6 wheelers is you have such a concentration of weight at a certain time that they are the ones that really rumble the bridges and that is the ones that are limited now to 55,000 pounds. Those are the ones that I am worried about, not really the long pulp truck because that distributes the load.

Sen. LAMONTAGNE: If this bill was referred to the Public Works Committee and, as you say with the 5 axle there is no problem because of the extra length, couldn't the Public

Works Department turn around and exclude the 55,000 pounds — the ones you are talking about that are causing trouble and damage to a bridge?

Sen. TROWBRIDGE: But those are the ones you want to expand the width and length of to 104 inches which are the ones that won't fit on a right-of-way. Two trucks going by on Dublin Hill in a snow storm already hit each other, already scrape each other. If they are going to be made any wider, you are going to have to get off the sidewalk and climb a tree. I am not prepared to go that way either.

Sen. LAMONTAGNE: I wish you could correct the records because I never asked for 104 inches.

Sen. Provost moved the previous question.

Adopted.

### ROLL CALL

Roll Call requested by Sen. Lamontagne. Seconded by Sen. Spanos and Sen. Downing.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Jacobson, Spanos, Nixon, Brown and Foley.

Nays: Sens. Blaisdell, Trowbridge, Porter, R. Smith, Sanborn, Provost, Bossie, Johnson, Downing and Preston.

Result: Yeas 8; Nays 10.

Motion defeated.

### HOUSE MESSAGE

#### HOUSE CONCURRENCE IN SENATE AMENDMENT

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election, and legalizing the election of delegates to the constitutional convention from the old wards of said city.

### MOTION TO VACATE

Sen. Gardner moved the referral of HB 3 to Public Health and Welfare and State Institutions be vacated and that HB 3 be assigned to Finance.

Sen. GARDNER: I do so because it will save a lot of time

and it will give Finance, where they have to consider it anyway, more time to work on the bill. This is agreeable with the Finance Committee.

Adopted.

Sen. Foley moved that the Senate do now adjourn from the Early Session and that when the Senate adjourns, it be until Tuesday next at 1 o'clock.

Adopted.

### LATE SESSION

Sen. Johnson moved the Senate adjourn at 2:40 p.m.

Adopted.

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*Tuesday, 19Mar74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Our Father in Heaven, Who understands our hopes and our fears, let each one look into his own heart that we may today go forward with true courtesy and honor.

Compel us to be honest in our doings. Keep our motives above suspicion and make our word our bond.

Let us also be kind in criticism of others and slow to judge, for we ourselves, one day, shall also be judged.

We ask this in Thy name. Amen.

The Pledge of Allegiance was led by Mrs. Sonja Jacobson.

### SUSPENSION OF RULES

Sen. Poulsen moved the Rules of the Senate be so far suspended as to allow introduction of a Committee Report on HB 31 not previously advertised in the Calendar.

Sen. POULSEN: This bill has a bond issue connected with it so it would have to be handled by the Finance Commit-

tee. It has several thorny aspects to it. It was the intention of the Committee to pass it as it came from the House, not to add any amendments to it but possibly to work with the Finance Committee as they process the bill to see which amendments should be included. The whole subject is in a little haste because there is a bankruptcy proceeding against the Boston & Maine Railroad at the end of this month and exactly what that will do, we don't know. We do urge this bill be passed today so that it can go to Finance for further action.

### COMMITTEE REPORT

#### HB 31

authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor. Ought to pass. Senator Poulsen for Public Works & Transportation.

Adopted. Referred to Finance Committee.

### INTRODUCTION OF SENATE CONCURRENT RESOLUTION

SCR 3, relative to school patrols. (Green of Dist. 6 — To Rules and Resolutions Committee.)

### HOUSE MESSAGES

#### HOUSE CONCURRENCE IN SENATE JOINT RESOLUTION

SJR 1, compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists.

### CONCURRENT RESOLUTION

The House of Representatives has passed the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

HCR 6, proclaiming March 26, 1974 as "Robert Frost Day."

Referred to Rules & Resolutions.

## COMMITTEE REPORTS

**HB 5**

relative to the office of energy administrator. Ought to pass with amendment. Sen. Jacobson for Executive Departments, Municipal & County Governments.

Sen. JACOBSON: HB 5 in its reduced form updates RSA 339:39, established in 1923, wherein the Governor, in concert with Council, may appoint a Fuel Administrator under emergency circumstances. The legislation before us changes the word "fuel" to "energy" and expands the concept of energy to include electrical energy.

This Energy Administrator shall have power to bring in witnesses so as to aid him in any investigation. He shall have power to issue rules and regulations subject to the modification by Governor and Council.

The amendment relates to the appeal section. Under the bill, as passed from the House, any party aggrieved by Governor and Council ruling could appeal for a trial *de novo* in superior court. The Committee amends the *de novo* provision and places the appeal on the supreme court level. The rationale was that the question at issue is the validity of the ruling and not the facts around the execution of the ruling *per se*.

The Committee urges the adoption of the amendment and the bill itself.

Sen. JOHNSON: I rise in support of the Committee report and want to make the following comment. The interesting part of the bill, as presented by Senator Jacobson, are the negative aspects which were stated in the Calendar last week. His powers do not include control of production, siting, eminent domain, local ordinances or transfer of funds or personnel. This, I believe, is the legislative intent.

Sen. BRADLEY: As I understand it, the State does not now have someone who is a Fuel Administrator?

Sen. JACOBSON: At the present time, the State does not have a Fuel Administrator because the Governor has not declared an emergency.

Sen. BRADLEY: Has there ever been a Fuel Administrator?



Sen. JACOBSON: If you are speaking historically, I don't know the answer to that.

Sen. BRADLEY: Is it safe to say we have not had one for a number of years?

Sen. JACOBSON: It is safe to say we have not had one since 1958.

Sen. BRADLEY: As I read this bill, and in particular Section 2 of the bill, this Energy Administrator appointed by the Governor is going to have very broad powers. For example, he would be able to say how much gasoline someone could sell?

Sen. JACOBSON: He would have the same powers that the Fuel Administrator would have at the present time. The statute remains the same as it is on the books now. That would be sufficiently broad powers to deal with any emergency circumstances such as issuing rules and regulations thereof, subject to the review and modification of the Governor and Council.

Sen. BRADLEY: But this Administrator, by regulation, could, for example, fix the price we pay for electricity could he not?

Sen. JACOBSON: Yes.

Sen. BRADLEY: He would not have the power with respect to electricity under the old statute, I don't believe.

Sen. JACOBSON: Under the old bill, he did not because electricity was not under the statute since it was in its infancy. Many homes in New Hampshire did not have electricity at that time. There is one deletion in this and that has to do with the Commissioner of Agriculture which is of no particular relationship today since that is an outmoded procedure. But the statute presently has fixing of prices for fuel.

Sen. BRADLEY: What was the Committee feeling regarding the need for this bill in view of the fact that the federal government already is in the picture? Does New Hampshire have to go it alone or isn't there enough regulation at the federal level?

Sen. JACOBSON: I am not quite comprehending of the motivation of your question. We did have this since 1923 and

the present bill simply updates it to incorporate the concept of energy. I do recognize the growth of the federal government since 1923. However, there could be conceivable circumstances whereby we might have need of this in some emergency in the future and, with that in mind, the Committee felt that the updating procedure would be a reasonable move.

Sen. TROWBRIDGE: Under HB 5 as presently offered, would this Fuel Administrator have the power to impose the mandatory odd-even kind of gasoline allocation in the cities and towns?

Sen. JACOBSON: He would.

### SPECIAL ORDER OF BUSINESS

Sen. Lamontagne moved HB 5 be made a Special Order of Business for Wednesday, March 20, at 1:01 p.m.

Sen. LAMONTAGNE: I feel I have an amendment which I consider to be of an emergency and I would like to have the time to be able to draft the amendment.

Sen. JACOBSON: Could we have the nature of the amendment which you propose to add tomorrow?

Sen. LAMONTAGNE: What I want to do is what the majority of this Senate refused to give me a two-thirds vote on SB 30, and I want to propose a compromise. I feel this is an emergency and it is needed. This bill has something to do with gasoline and trucks use gasoline.

Adopted.

### COMMITTEE REPORTS

#### HB 15

relative to redistricting the ward lines of the city of Laconia. Ought to pass with amendment. Sen. Johnson for Executive Departments, Municipal and County Governments.

### AMENDMENT

Amend section 1 of the bill by striking out the description of Ward No. 2 and inserting in place thereof the following:

Ward No. 2 shall include all that part of said city contained

within the territory as follows: starting at a point in the Winnepesaukee river westerly of an extension of the southernmost property lines of property fronting on the south side of Arch street; then east along said extension to the easternmost property line of property fronting on the east side of Union avenue; then north along the easterly property lines of property fronting on the east side of Union avenue to the southernmost property line of property fronting on the south side of Winter street; then east along the southerly property lines of property on the south side of Winter street to the Gilford town line; then north, then west, then north along the Gilford town line to a line on an extension of the southernmost property lines of property fronting on the south side of Mechanic street; then west along said extension to the easterly property line of property fronting on the east side of Union avenue; then north across Mechanic street along said easterly property line to the westerly property lines of property fronting on the west side of Mechanic street; then north along said westerly property lines to the southerly property line of property fronting on the south side of Clinton street; then west along the southerly property lines of property fronting on the south side of Clinton street to the Elm street bridge; then south along the eastern shore of Lake Opechee to the point of beginning.

Sen. JOHNSON: The only change is in reference to Ward 2 where the "Clinton" street bridge is changed to "Elm" street bridge. This is routine legislation redistricting the City of Laconia. This measure also must be approved by the voters of Laconia at a referendum to be held when delegates to the 1974 Constitutional Convention are elected. It does not affect the the terms of the Representatives of the 1973 General Court. It was the unanimous vote of the Committee this pass.

Amendment Adopted.      Ordered to Third Reading.

## HB 16

permitting public accountants to form a professional association. Ought to pass with amendment. Sen. Blaisdell for Executive Departments, Municipal and County Governments.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

## An Act

permitting public accountants and registered professional nurses to form professional associations.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Definitions for Professional Associations. Amend RSA 294-A:1, I, (supp), as inserted by 1969, 111:1, by striking out said paragraph and inserting in place thereof the following:

I. "Professional service" means any type of professional service which may be performed only pursuant to a license, certificate, or other legal authorization as provided by RSA 309-A, 310, 311, 315, 316, 317, 318, 319, 326-A, 327, 329, 330-A, or 332, granted to certified public accountants, public accountants, architects, attorneys, podiatrists, chiropractors, dentists, pharmacists, professional engineers, psychologists, and veterinarians.

Sen. BLAISDELL: HB 16 came about when a group of Public Accountants went to the Secretary of State's Office and asked to be incorporated. They found out that, unless the statutes were changed to allow them to form a professional association, they could not be incorporated. This change comes under RSA 309.

An amendment was offered to our Committee allowing registered professional nurses to be included in this group. The Committee was unanimously in support and I ask your support of this bill.

Sen. TROWBRIDGE: Was there any consideration given to foresters or other professional groups — is there something we should be doing more broadly than just taking piecemeal nurses when they come in, accountants when they come in and putting in professional associations?

Sen. BLAISDELL: That is a very good point. We discussed that in Committee. It just happened the accountants came in along with the professional nurses. Your point is well taken, but these were the only two people who came in.

Sen. DOWNING: I rise in support of the pending motion and urge my colleagues to support it also. I think the comments of Senator Trowbridge are certainly worthy of consideration.

It is unfortunate that a blanket type of thing could not have been adopted for any professional organization but, at this point, I urge your passage of this.

Adopted.      Ordered to Third Reading.

Sen. Gardner recorded in favor of HB 16.

## **HB 19**

increasing the amount of political expenditures authorized for candidates in primary and general elections seeking the office of governor, U. S. senator, representative in congress, governor's councilor, county officer, state senator or representative to the general court. Inexpedient to legislate. Senator Johnson for the Majority of Executive Departments, Municipal and County Governments; Ought to pass. Senator Preston for the Minority of Executive Departments, Municipal and County Governments.

Sen JOHNSON: The Committee gave this a great deal of thought. A year ago, minus two days, HB 81 was reported inexpedient and so voted by the Senate. Today we have HB 19, virtually the same bill, only it has two sponsors this time and addresses itself to the General Election as well as the Primary. It purports to raise the campaign spending limit from 15c to 25c per voter.

The Majority feels that there is nothing in this bill that would contribute to the common good. This bill will not produce better government. Testimony was introduced that raising the limit would cover possible dishonest reporting. Everybody seems interested in correcting the abuses of the present laws governing expenditures. We heard last week the great report on SB 1 — election reforms — given by Senator Jacobson. We feel, the Majority, that just reducing the degree of abuse is not the answer. We strongly urge the adoption of the Majority Report: Inexpedient to Legislate.

Sen. SPANOS: What does it mean in terms of dollars and cents on the basis of 15c per voter and then raising it to 25c per voter?

Sen. JOHNSON: It would raise it 60%.

Sen. SPANOS: How about dollars? What would it cost a man to run for Governor on a 15c basis and what could he spend if it were 25c?

Sen. JOHNSON: I do not have the exact number of people. That list is prepared by the Secretary of State. If we could get down to a local level, I believe we would probably all have about 13,000 registered voters — 13,000 at 15c would be \$1,950.00 and at 25c it is \$3,250.00. That is very fast arithmetic.

Sen. SPANOS: I was inquiring about the Governorship. Senator Jacobson, did you indicate you had that information?

Sen. JACOBSON: Presently you could spend \$67,056.00; if the bill is enacted you may spend \$111,760.00.

Sen. BOSSIE: Senator Johnson, would you advise the Senate how long a period of time 15c per voter has been permitted for expenditures.

Sen. JOHNSON: I believe testimony was in here that it goes back quite a while — 1953, or 1947 or 1827 or some figure like that.

Sen. BOSSIE: Did the Committee consider the possibility that the cost of newspaper advertisements, TV and radio advertising, the cost of the mail has all increased in that 16 or 20 year period?

Sen. JOHNSON: Yes. The Committee gave that a great deal of thought — at least the Majority did — and we came up with the inescapable conclusion that inflation will not inflate the quality of the candidates.

Sen. BOSSIE: Is it not necessary for one who pretends to be highly qualified in order to run a capable campaign to be able to spend an amount of money sufficient to allow the people in his or her district to know exactly where they stand on what particular issue.

Sen. JOHNSON: I think your question is — if somebody is not as well qualified should he be able to spend more money. Is that it?

Sen. BOSSIE: The question remains — as a result of inflation over the years — 20 years ago you or I could have run for this office — the State Senate — and spent much less money than we could now because of the fact that just recently postal rates have increased by 2c. That is a lot of money if you are going to send a letter to every one of your constituents. We have seen that also in newspaper and radio and television. I

would hope that the quality of the candidates then, as now, would be very high. What I am concerned with is that we are permitting these people to advertise, to spend an amount that they need to spend and not be excessive so as to permit them to run a decent campaign.

Sen. JOHNSON: I think, Senator, if an answer could come to that general statement, I would still stick to my statement that inflation is not going to inflate the quality of the candidate.

Sen. BOSSIE: You stated in your report that to increase the amount of expenditure covers the possibility of dishonest reporting. How can you interpret this?

Sen. JOHNSON: Unfortunately, that was not quite clear to you. Testimony was introduced that raising the limit would cover possible dishonest reporting.

Sen. BOSSIE: Would you explain that. How do you figure that?

Sen. JOHNSON: I did not buy it so, therefore, did not adopt that. That was what testimony by the proponent of the bill brought in.

Sen. BOSSIE: Do you feel that by virtue of the Majority Report you are favoring incumbents as opposed to anyone who chose to run against an incumbent for political office?

Sen. JOHNSON: No.

Sen. POULSEN: Don't you agree that the effort a man puts into getting a job should be comparative to the income he can get from a job? Now, do you believe there is any more income to be gotten from say a Senator's job this year than there was two years ago?

Sen. JOHNSON: No.

Sen. S. SMITH: Could you tell me when the existing 15c was adopted?

Sen. JOHNSON: I took a stab at that and I think it is somewhere around 1953, 1947, 1927 or someplace.

Sen. JACOBSON: 1957.

Sen. S. SMITH: We will say in 1957, what was the cost of a stamp? Was it still 3c?

Sen. JOHNSON: I believe you are touching on what was known as the pre-Roosevelt dollar.

Sen. Preston moved the Report of the Minority, Ought to Pass, be substituted for the Majority Report, Inexpedient to Legislate.

Sen. PRESTON: It seems we are reenacting a similar scene as we did in the last session. In fact, the players are the same — the same members of the Majority and Minority within our Committee are the same.

Just a matter of days ago, we in the Senate unanimously passed a bill providing for "open" and "honest" political campaigns in New Hampshire — requiring greater accountability and full disclosure reporting procedures. Let me refer again to the words "honest" and "open."

Representative McLane, in testimony before the Committee, indicated that her husband in the last Gubernatorial campaign, campaigned for a period of six weeks on a shoestring campaign with one full time worker and several part time workers and some high school youngsters at \$25.00 a week and came within a few dollars of over spending the allowable limit.

Honestly, and I repeat the word "honestly," do you think Governor Thomson is now in office with the allowable \$67,056.00, or Governor Peterson or Governor King or the United State Senators for \$67,056.00?

We should not view this bill as complacent incumbents or as secure Democrats from a heavily Democratic area, or Republicans from towns heavily endowed with Republican voters. To vote against this bill would actually prevent an aspirant for these offices from printing a letter or brochure outlining his or her qualifications and mailing them to the voters, totally excluding any possibility of newspaper ads, TV or radio that is so necessary in statewide campaigns. During these times of political turmoil, it seems essential that voters know more about their candidates. Postage alone has increased several hundred percent since this 15c limit was established in 1957. If we are to be consistent in voting for full and open disclosure in campaign processes, particularly for those seeking office statewide, we should vote to increase this amount per voter to 25c.

This is not a question of allowing more money for those



that can afford it to campaign, but to enable those running for office, perhaps for the first time, to honestly report all expenditures, both personal and by the myriad of committees that work on behalf of a candidate, whom rumor has it may spend twice the allowable amount to campaign.

The House on two occasions within the past year has seen fit to pass this legislation. I suggest that we in this Chamber face the facts and do likewise.

Sen. JACOBSON: I rise in support of the motion to substitute "ought to pass" for "inexpedient."

During the regular session, the content of HB 19 resulted in the only bill on which the committee could not reach a unanimous decision. In this Special Session, the same has happened. My thought was that if the Committee could not make progress, there seemed little hope on the Senate floor.

However, I am heartened by the present situation wherein we all find ourselves in the "silly season," politically speaking, with candidates for political offices coming on stage in droves. Similarly, the political imagery is blossoming forth with new categories. Some Senators are cronyists and some are anti-cronyists. Some Senators are cowboys and others are Indians. Each will have to decide his own position.

Furthermore, I was pleasantly surprised to learn that four of our colleagues are real or potential candidates for Governor. The delight from being even tangentially associated with those aspiring to the dazzling heights of the corner office should give even those of who are not this luminary class an euphoric experience.

With all this in mind, HB 19 seems a reasonable extension of the problem of campaign finances. Under the present law, 15c per voter is the allowable expenditure of a political candidate. Given the present inflation no candidate, even for the modest office of State Senator, can make a single mailing without violation. Postage alone will take two-thirds of the permitted expenditure. Frankly, this would put genuinely honest candidates in an untenable position, whereas those who engage in subrosa financial dealings are not going to be affected in any case.

Frankly, any realistic analysis of the present character of

political campaign financing demands the passage of HB 19. Under the present statute, any serious candidate would be unable to pursue legitimate campaign expenses.

Finally, Attorney General Rudman has raised questions as to potential conflicts between the provisions of this and present Federal statutes on campaign financing. I am no lawyer, but only a country boy who occasionally comes down to be dazzled by the city princes, but I am not quite as excited as the Attorney General about the conflict, since the present statute is already in conflict. Furthermore, the present Federal statute is more liberal than the State statute. If the argument, by the lawyers, that Federal statute pre-empts state regulation, any complaint deriving therefrom would not deprive the winner of the office, since it would be ridiculous to assume that a complaint would be lodged against one who refused to spend above state limits.

I, therefore, urge that we pass HB 19 as a measure to update in a realistic manner the present campaign expenditures law.

Sen. FOLEY: I am dwelling on this euphoric experience and I am wondering who the four horsemen are who are galloping toward the Governor's office. I have only come to two.

Sen. JACOBSON: It gives me a great deal of pleasure to announce that the four candidates, as announced on television last Wednesday evening, are Sen. Spanos, Sen. Trowbridge, Sen. Porter and Sen. Nixon.

Sen. BOSSIE: We have heard it said here that the 15c permission to spend in an election was instituted in 1957. We have seen recently where postal rates and meter rates have increased. Would you have any idea as to the percentage of inflation that has occurred during that period of time to enable honest candidates to run a decent campaign within the limits of the law?

Sen. JACOBSON: I would estimate it at a CPI of approximately 260.

Sen. BOSSIE: It was my contention in my question to Senator Johnson that the present law favors — and I think wrongly — incumbents. Would you have any philosophical comment on that?

Sen. JACOBSON: I think any election favors the incumbent regardless of the expenditure law.

Sen. SPANOS: You indicated you are not a lawyer; you indicated that you are a country boy. Would a country boy kindly tell me, after you just went through this wonderful speech and announced my candidacy for a first time, do I have to report that in my expenditures for the campaign?

Sen. JACOBSON: No, that is not reportable; that is an incidental expense.

Sen. SANBORN: Senator Preston, in your discourse on this bill, I did not get one thing. What are the expenses that are acceptable under the law? What expenses are to be reported under the law?

Sen. PRESTON: It is very clearly outlined in SB 1. If I might refer to the expenditures — “anything of value, by a candidate, or a person or political committee acting under his authority, for the purpose of influencing the nomination or election of any candidate.”

Sen. SANBORN: This does not include personal expenditures of the candidate such as travel, meals and that sort of thing, does it?

Sen. PRESTON: No.

Sen. SANBORN: In your opinion, which is better — to send a letter to one of your constituents or personal contact with that constituent?

Sen. PRESTON: I think both are of equal value. I would not refrain from placing my qualifications and voting record on a document or piece of paper to present to someone other than just mere words — political verbiage. I think personal contact is as important.

Sen. SMITH: I rise in support of the 25c limit for many of the reasons which have been expressed here. Particularly, I think the inflation factor is an important concept. I think also that it makes little difference whether or not you spent the 25c or 15c because a candidate, as was indicated at least in some instances, is better off with the personal approach. But I think in these offices which are covered, by increasing it to 25c from 15c — such as the Senate where you have a constituency of 30,000 people, it is difficult to make personal contact with each

and every person in that district. I also believe strongly that the increased allowable would make for better reporting and more honest campaigns. I think this is the important factor behind the passage of this bill.

### INDEFINITE POSTPONEMENT

Sen. Downing moved HB 19 be indefinitely postponed.

Sen. DOWNING: As has been testified here by other Senators, this subject was considered during the regular session and was rejected by the Senate then. I think it ought to be rejected now. I don't think we should encourage any more spending in political campaigns than we have to. I think probably we would be better off if we went the other way and eliminated all of it. I think the public would be better off too if the candidates spent more time getting around and seeing them — walking if they have to; there certainly is enough money in there to pay for shoe leather — getting around and meeting the people face to face rather than junking up the mails and making the newspapers rich with ads that half the people don't read anyway. Hopefully you will indefinitely postpone further action on this and we will retain our sanity and try to keep the spending level in campaigns down.

Sen. JACOBSON: I noticed you did not want to keep newspapers rich — what about the television stations and the radios?

Sen. DOWNING: They are all the same as far as I am concerned. I did not mean to discriminate but I think they all are getting rich on political campaigns.

Sen. BOSSIE: I rise in opposition to the Motion made by Senator Downing. I think his ideas are great; they are just wonderful, if in fact they were possible. I think it would be nice if we all could do it. I think perhaps on the Senate and Representative level, we can walk around to meet our constituents and certainly in my district I walked from house to house. But, at the same time, these are things that are required to inform your constituents via the mail or via the news media whether it be written, radio or television. I have asked questions which obviously indicate how I feel in this matter — and I do support it, not because I want to spend any extra money or am able to. It is fact that it costs more to campaign now than it did 20 years

ago. Mailing has increased from 8c to 10c within the last two weeks. I think to permit expenditures of 25c would give leeway to encourage honest election reporting, if nothing else.

I think the present law is advantageous to incumbents and, further, I would like to make reference to a report by the Campaign Finance Monitoring Project Common Cause of the 1972 federal elections. There are very interesting statistics in that. It states that money flowed to Congressional incumbents twice as fast as to challengers. Two-thirds of the contributions came in amounts over \$100.00. Obviously in the small state of New Hampshire where contributions are limited it will have a greater effect than in a larger state which permits millions of dollars to be spent in a congressional election. I think we should give significance to our Congressional and Governor races as well as to our own State Senate and Representative races. In the State of Maine in the last Senate contest, Representative Hathaway spent \$202,000.00; Margaret Chase Smith spent \$4,900.00. In Rhode Island, Claiborne Pell spent \$528,999 to run for the United States Senate and John Chafee spent \$457,000.00 — a total of \$1 million to run for the U. S. Senate. In New Hampshire, Senator McIntyre spent \$82,000.00 and Mr. Powell spent \$104,000.00. My question is basically — why is a Senate position in Rhode Island worth that much more than in New Hampshire when, in fact, it isn't. I don't encourage the spending of these large amounts for these races. I do, however, feel that the spending of 25c per voter is quite justified.

Sen. JACOBSON: I rise in opposition to the motion to indefinitely postpone. I can have empathy with respect to Senator Downing's position which is a question of idealism, but I don't think we are dealing with a question of idealism here; I think we are dealing with a problem of necessity that, as long as we have political expenditures laws, we ought to have them at least reasonable and consistent with what the costs are. Prior to the development of political expenditures, we had another system of politicking in the 19th century which was a system of political cronyism and, if you want to go back and read the gutter politics of the 1870's, 1880's and 1890's, you will find that problem was much worse than our problem is at the present time. So that I feel that though all of us would wish that we would not have to spend a penny; that everybody would make a reasonable attempt to identify the good guy against the bad guy, it just is not going to happen.

Sen. SANBORN: Senator Bossie, you confused me on a couple of figures there. We have earlier testimony here that somebody for a statewide office could spend \$67,000.00 and then you just reported that two candidates for the Senate — the United States Senate which is a statewide office — spent \$82,000.00 and \$104,000.00. How did they get away with it?

Sen. BOSSIE: I believe they were within the law. I do not know if it was both Primary and General Election, but this was the report and I presume it was correct.

Sen. TROWBRIDGE: This was really by way of answering a question and, having recently been placed in that euphoric state with the four horsemen, which I had not realized, I speak with a different feeling. The question we had today, I think, is apropos of Senate Bill 18 where we went back to 1957 in giving cost of living increases to the teachers, the firemen, the policemen and municipal employees. In the testimony on that bill, it was quite clearly pointed out that the cost of living index, exclusive of just postage, has gone up some 47% since 1957. So, in answer to that question, the bill here would give a 47% increase to political expenditures. I think it is quite in line. So, why don't we give ourselves a cost of living increase?

Sen. Blaisdell moved the previous question.

Adopted.

### ROLL CALL

Roll Call requested by Senator Blaisdell. Seconded by Senator S. Smith.

Yeas: Sens. Lamontagne, Poulsen, Spanos, Blaisdell, McLaughlin, Ferdinando, Sanborn, Brown, Johnson and Downing.

Nays: Sens. S. Smith, Gardner, Green, Jacobson, Trowbridge, Porter, R. Smith, Provost, Bossie, Preston, Bradley and Foley.

Result: Yeas 10; Nays 12.

Motion lost.

Motion to substitute.

Adopted.

Recorded in opposition to HB 19: Sens. Poulsen, Spanos, Blaisdell, Sanborn, Brown, Johnson and Downing.

Sen. Ferdinando moved adoption of an amendment.

Sen. FERDINANDO: My amendment is a very simple one. It is somewhere in between to make everybody happy. The amendment in essence says that we are going to change it from 15c to 20c. This would be a compromise. Actually, this is more than a 40% increase — it is 45 point something. It will be a compromise; it will make up for the cost of mailing between 1957 and today and it would be in the interest of everybody.

Sen. PRESTON: My arithmetic might be incorrect but your increase of 5c seems to be an increase of 33-1/3%; but postage has increased about 300%. Is that correct?

Sen. FERDINANDO: First of all, I think if you increase from 15c to 20c, that is 33-1/3%. I am not sure just where the postage went from 1957 because it was not really quite answered as to where the postage was in 1957.

Sen. PRESTON: If a postage stamp was 3c at that time and it is 10c today, would you agree that is an increase of 300%?

Sen. FERDINANDO: If that is what it was, yes.

Division: Yeas 10; Nays 11.

Amendment lost.

Ordered to Third Reading.

### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: The facts I am going to give this Senate today are true. I am not ashamed to say to this Senate that yesterday I was talking to the Governor of our State, His Excellency Meldrim Thomson, Jr., and I also asked him if he had seen the 12th Annual Report of the Advisory Commission on Health and Welfare of October, 1973 and asked him to look at it.

Members of the Senate, there is no question about it — the Governor has been having quite a few hard feelings going on in appointing a Commissioner of Health and Welfare, especially when you take a Report that has been made by Robert Wilson,

a dentist, who happens to be the Chairman of that Commission. In this Report, there is nothing else but filthy, rotten politics. I hate to speak this way on this Senate floor, but how can we keep peace in the family when you have a Chairman of an Advisory Commission on Health and Welfare who would make such a Report and make so many accusations that I don't even dare to put them in the *Journal*, but I only hope that the newspapers will take the opportunity of reading it and I hope you Senators will take the opportunity to refer to page 3. It is my understanding that in the Report it says "This is my final Annual Report." This has been said by Robert Wilson, a dentist. Well, I am glad to see that it is his final Report. I am going to tell you it is an awful waste of the taxpayer's money to see such a Report submitted to the Governor of our State regardless of whether his party is Republican or not. It shocked me when I saw this Report and I hope you will take the opportunity of reading this Report that has been made by Robert Wilson and I think you will find that you will agree with the remarks I have just made. It is disgraceful for a Chairman of any such Commission to submit such a Report and to have it on our desks here in the Senate.

## RECESS

## AFTER RECESS

## SUSPENSION OF RULES

Sen. Poulsen moved Rule 10 of the Joint Rules be suspended to allow introduction of a Senate Bill.

Sen. POULSEN: This bill has to do with the Industrial Authority of the City of Berlin. We thought it more fair that the whole problem be presented for the open view of the Senate so that the Senate itself could vote on it. The Rules Committee voted to accept the bill if the Senate will go along with the two-thirds vote.

Sen. SPANOS: I would like the Senate to know why I supported bringing this bill in and it is largely because it is my understanding from Senator Lamontagne it may very well mean an industry for the City of Berlin and whether this legislation passes or not, I think we should give them that consideration if that is the fact.

Adopted.



## INTRODUCTION OF SENATE BILL

First and second reading and referral

SB 31, authorizing the city of Berlin to acquire, develop and operate industrial parks within the city and to aid the construction and expansion of industrial facilities within the city by the issue of revenue bonds. (Lamontagne of Dist. 1, Through Rules Committee. To — Executive Departments, Municipal and County Governments)

## COMMUNICATION

March 18, 1974

Sen. Laurier Lamontagne  
Senate House  
Concord, N. H.

Dear Senator:

The Berlin City Council petitions the New Hampshire legislature now in special session that, to insure our ability to move ahead in Industrial Development, and to honor industrial commitments made in good faith under existing but faulty legislation, we request that a bill similar to or nearly indetical to the Dover bill be introduced immediately by Senator Lamontagne, and we urge its support.

The above motion was passed unanimously by the Berlin City Council on the above date.

Yours very truly,  
Sylvio J. Croteau, Mayor  
James Smith, City Manager

## COMMITTEE REPORTS

**HCR 2**

establishing a joint committee to study the railroad conditions and related matters in the state of New Hampshire. Ought to pass as amended. Sen. Poulsen for Public Works and Transportation.

## AMENDMENT

Amend the third paragraph of the resolution by striking out the same and inserting in place thereof the following:

*Be It Further Resolved*, that the members of the committee

shall be entitled to legislative mileage from their home to Concord and the same mileage as state employees for other travel and any other necessary expenses in carrying out their duties hereunder. Such expenses and mileage shall be chargeable against the joint legislative appropriation.

Sen. POULSEN: The amendment has to do only with wording in the paragraph which has to do with legislative mileage for members of the committee.

The bill itself establishes a committee to study the railroad situation. The committee disbands January 1, 1975 and the committee is charged with reporting its findings by December 15, 1974.

Adopted.

#### HB 20

increasing the interest rate of housing authority bonds. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: This is the shortest bill I think I have ever had. It had one line in it. All it does is change the interest on bonds to local housing authorities from 6% to 8% which is necessary if they are to borrow any money.

Adopted.      Ordered to third reading.

Sens. Porter and Foley moved that the text of the Dedication of the Portrait of the Honorable Norris Cotton, United States Senator, be printed in the *Journal*.

Adopted.

#### NORRIS COTTON

Oft times the great move in our midst without recognition.

They are with us in the sunshine of school days, share the dreams and hopes of budding maturity, and grow from day to day and from one service to another, until suddenly the total of the lifespan of their good deeds marks them as outstanding among their fellowmen.

Such a one is Norris Cotton.

Born of America's great tradition in an humble farm home

of Godloving parents, Norris grew up in the small town of Warren, New Hampshire, where friendship and neighborliness were as much a part of daily life as the woodstove in winter and the fishing hole in summer.

Born May 11, 1900, he attended Tilton School, Phillips Exeter Academy, Wesleyan University and George Washington University Law School. In 1927 he married Ruth Isaacs of Union City, Tennessee.

Blending God's precious gifts of a strong physique, native intelligence, and great industry, he prepared himself as a young lawyer for the long, interesting, and unusual career of a half century of public service for the citizens of his native Granite State.

As a lawyer, prosecutor, legislator, Congressman and United States Senator, Norris Cotton wove the bright pattern that has marked his career of service.

And in between and interspersed throughout the pattern he managed to be an excellent preacher, a teller-of-tales — some tall and some a bit wide on the bias of time, but always in good fun and risable — a strong debater, author with a sharp and bouncy pen, an easy friend beside any hearth, and yet so astute and knowledgeable that his advice was sought by Presidents.

It is our heartfelt prayer that the warmth and beauty of Norris Cotton's autumn will linger in health and happiness for unfolding years yet unreckoned.

To him we extend our sincere and grateful thanks for the fifty years of sacrifice and service that he gave to our sovereign State of New Hampshire.

And now, it is my rare and great privilege to unveil this permanent portrait of Norris Cotton, who is one of New Hampshire's alltime great citizens and one of America's finest statesmen.

Meldrim Thomson, Jr.  
Governor

## SUSPENSION OF RULES

Sen. S. Smith moved the Rules of the Senate be so far sus-

pended as to dispense with notice of public hearing, holding of public hearing and to allow introduction of a committee report not previously advertised in the Calendar on HCR 6.

Sen. S. SMITH: This proclaims March 26, 1974 as Robert Frost Day; that being next Tuesday, I hope the Senate will go along with this suspension.

Adopted.

## COMMITTEE REPORT

### HCR 6

proclaiming March 26, 1974 as "Robert Frost Day." Ought to pass. Sen. S. Smith for Rules and Resolutions.

Sen. S. SMITH: I think several things should be noted about this. March 26 is Robert Frost's birthday and, secondly, on that date in Derry a stamp will be commemorated to him.

Sen. JACOBSON: I would like to speak in favor of the Resolution, but I would also like to say that I hope the Senate will go further than this Resolution in the very near future. As you know, Robert Frost's home needs serious renovations and I am hopeful to introduce an amendment to the Capital Budget Bill to provide some extra money for that. This comes as a little pre-introduction to what I plan to do, so you can have ample time to consider it and I hope we will have favorable action on that amendment as well — doing something that is real and tangible, as well as something that is honorific.

Adopted.

## PERSONAL PRIVILEGE

Sen. SPANOS: On Friday, February 22nd, the Manchester Union Leader charged that I was furthering my own political ambitions by utilizing the State House postage meter to mail out personal communications, and using letterheads and envelopes all at the expense of the taxpayers of New Hampshire.

As I informed the Union Leader reporter, Arthur Egan, Jr. the evening before he ran the story, mindful of my responsibilities to the taxpayers of this State, I have made it a policy at my office as Senator and Vice-President to pay for my own letterheads and envelopes and not to send out any mail using the State House postage meter when the mail is of a personal nature. My office has adhered to that policy faithfully.

Because of our adherence to this office rule, I was much surprised to hear from Mr. Egan that *one* letter, dated Friday, January 25th and postage metered on January 26th, bore the number of the State House meter on the envelope.

I asked Mr. Egan to produce the envelope the evening before his report appeared in the Union Leader and again on the floor of the Senate about 2 weeks ago. No such envelope has been forthcoming to-date. Because of the Union Leader's silence, I suspect a "dirty-trick" tactic designed to discredit my candidacy for Governor.

Since I last spoke on the floor of the Senate concerning the Union-Leader's charges, I have done some checking on my own. I was able to learn the following: (1) the letter dated Friday, January 25, 1974 was typed in Newport by one of my two secretaries; (2) no mail of mine has been sent out of my Senate office in recent months; (3) the State House postal meter did not operate on January 26th (the date published by Mr. Egan as the postmark date) since that was a Saturday and the State House meter does not operate on Saturdays.

I resent the distorted picture of me that Mr. Loeb is trying to paint. It is quite obvious (even if there *was* one letter) that Mr. Loeb obviously fears my candidacy because he knows that I am not about to capitulate to his dictates or make him the Governor of the State. Otherwise, why would he bother to daily attack an "unknown" from Newport, New Hampshire.

So — I ask for the third and last time — Mr. Loeb or Mr. Egan, please produce the one piece of stationery you claim is mine and which allegedly carries the State House postal meter number. If it is not forthcoming within the next 10 days, the public and I shall assume that such an envelope is non-existent and we will hold you and your paper accountable for the "rape" of the truth.

Sen. Foley moved the Senate do now adjourn from the Early Session, that the business in order at the Late Session be in order at the present time, bills be read by title only, and that when the Senate adjourn, it be until tomorrow at 1 o'clock, and that the Senate adjourn in honor of the birthday of the Senate President.

Adopted.

## LATE SESSION

## Third Reading and Final Passage

HB 15, relative to redistricting the ward lines of the city of Laconia.

HB 16, permitting public accountants and registered professional nurses to form professional associations.

HB 19, increasing the amount of political expenditures authorized for candidates in primary and general elections seeking the office of governor, U. S. senator, representatives in congress, governor's councilor, county officer, state senator or representative to the general court.

HB 20, increasing the interest rate of housing authority bonds.

Adopted.

Senator Jonhson moved the Senate adjourns at 3:05 p.m.

Adopted.

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*Wednesday, 20Mar74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Almighty Father of the Universe; we are conscious of own shortcomings — and we put our trust in Thee for help.

May we never tolerate one thing in our personal living, which, if it were multiplied by others, would weaken our State.

Teach us that this country is no better than its citizens and no stronger than those in whom it puts its trust. Help us to see ourselves as You see us. With Thy blessings we need not fear decisions nor hesitate to act. So hear Lord, *use us*; act thru *us*; and guide *us* always. Amen.

The Pledge of Allegiance was led by Senator Claveau.

HOUSE MESSAGE  
HOUSE CONCURRENCE IN  
SENATE AMENDMENTS

HB 15, relative to redistricting the ward lines of the city of Laconia.

HB 16, permitting public accountants and registered professional nurses to form professional associations.

HCR 2, establishing a joint committee to study the railroad conditions and related matters in the state of New Hampshire.

ENROLLED BILLS REPORT

SJR 1, compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists.

HB 19, increasing the amount of political expenditures authorized for candidates in primary and general elections seeking the office of governor, U. S. senator, representative in congress, governor's councilor, county officer, state senator or representative to the general court.

HB 20, increasing the interest rate of housing authority bonds.

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election, and legalizing the election of delegates to the constitutional convention from the old wards of said city.

Sen. Paul Provost  
*For the Committee.*

Adopted.

RECESS  
AFTER RECESS  
HOUSE MESSAGE  
HOUSE NON-CONCURRENCE

SB 6, relative to landlord-tenant relations.

SPECIAL ORDER

Sen. Green moved HB 29 be made a Special Order of Business for Tuesday, March 26, at 1:01 p.m.

Sen. GREEN: At the request of a member of the Committee, I would like to hold this bill to that point in time.

Adopted.

## COMMITTEE REPORTS

### HB 4

providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance. Without recommendation. Sen. McLaughlin for Public Health, Welfare and State Institutions.

Sen. McLaughlin moved the words "ought to pass" be substituted for the Committee Report "without recommendation."

Sen. MCLAUGHLIN: I would like to have this bill passed today and sent on to Finance. It is a money bill, since it involves quite a bit of money, Finance should have it today.

Adopted.      Referred to Finance.

### SJR 3

establishing a committee to study highway safety and motor vehicles weight, length and width requirements. Ought to pass. Sen. Poulsen for Public Works and Transportation.

Sen. POULSEN: This Resolution establishes the committee described in the Resolution. It is simply a study committee and we recommend its acceptance.

Adopted.      Ordered to third reading.

### HB 7

permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states and permitting broader cooperation in furnishing of municipal services. Ought to pass with amendment. Sen. Jacobson for Public Works and Transportation.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:



## An Act

permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states; permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

Amend the bill by striking out section 5 and inserting in place thereof the following:

5 Support of Group Homes; Towns. Amend RSA 31:4, as amended, by inserting after paragraph XLVII the following new paragraph:

XLVIII. Group Homes. To support or aid group homes. For the purposes of this section, a group home is an institution or home which is supervised and licensed pursuant to the provisions of RSA 161:2, IV, and provides residential and counseling services to persons under the age of twenty-one.

6 Support of Group Homes; Cities. Amend RSA 47 by inserting after section 11-a the following new section:

47:11-b Group Homes. The city councils may appropriate money to support or aid group homes. For the purposes of this section, a group home is an institution or home which is supervised and licensed pursuant to the provisions of RSA 161:2, IV, and provides residential and counseling services to persons under the age of twenty-one.

7 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: What HB 7 does is grant to cities and towns, in the appropriate RSA's, the authority to establish mass transit relationships within themselves and with other communities. In the town section, it is an addition to RSA 31:4 which, of course, would mean that the town meeting would have the opportunity to make that kind of decision. In the city section, which is RSA 47, there are two possibilities; one, with respect to the council of a city adopting a mass transit proposal. In that instance, it must be by a two-thirds vote. If the question is to be put to referendum, it can be by the majority of the persons voting in the said referendum.

The amendment to the bill, which was an amendment pro-

posed by Rep. Scamman of Stratham, has to do with granting an additional authority to cities and towns with respect to establishing homes such as halfway houses for persons under 21 years of age. In both instances, this is merely enabling legislation and each city and each town, of course, must make their own decision.

Sen. BRADLEY: I want to rise briefly to lend my support to the bill. It is only adding powers to what municipalities already have; it is a power they ought to have. There has been a significant amount of interest in this bill in our area and, hopefully, may help to improve mass transit in our area and other parts of the State if adopted.

Adopted.      Ordered to third reading.

#### HB 25

changing the reporting date for the study commission on the problems of unemployed citizens in New Hampshire. Without recommendation. Sen. Downing for Ways and Means.

Sen. Downing moved the words "ought to pass" be substituted for the Committee Report "without recommendation."

Sen. DOWNING: HB 25 merely changes the reporting date of a commission appointed during the last session. The reporting date originally was January 1, 1974. However, for one reason or another, the commission was not even able to organize until October, so it just made the January 1 reporting date unrealistic. This bill would extend it until the next session, or next January, 1975. I urge your support.

Sen. JACOBSON: In your Committee evaluation of the present work of the commission, how much progress have they made with respect to the work they have done thus far?

Sen. DOWNING: We only received testimony from one individual — the sponsor, Representative Hildreth — and they had not made the progress they hoped to make. They don't feel they have really had the time. There have been three public hearings — one in Dover, one in Concord and one in Manchester. The Manchester one, it was testified, was relatively successful and the other two not so successful. There has been some work done in the department — records being made available to them, following up complaints and problems, etc. — but still there has not been enough done for the Committee

to feel they could develop any type of report at this time, so they wished to have it extended.

Sen. JACOBSON: In the investigation they have conducted thus far, have they found any significant failings?

Sen. DOWNING: I don't believe so. It was not testified to that effect. I think they found some areas of concern, but the concern was relieved when they looked into it further with the department records.

Adopted.      Ordered to third reading.

### HB 12

conforming tax commission references in the current use taxation law to the revised revenue administration laws. Without recommendation. Sen. Downing for Ways and Means.

Sen. Downing moved the words "ought to pass" be substituted for the Committee Report "without recommendation."

Sen. DOWNING: HB 12 is one of these housekeeping type of things. It conforms the Tax Commission references in the current use tax law to the new organization structure of the Department of Revenue Administration and Board of Taxation. It also conforms the appeal procedures and use classification for the regular appeal procedures established for all property tax appeals. It does just this and no more. It is a housekeeping bill but a necessary one and it has been kept to just that.

Adopted.      Ordered to third reading.

### HB 32

relative to the commission and taxes on pari-mutuel pools at dog tracks. Without recommendation. Sen. Downing for Ways and Means.

Sen. Downing moved the words "ought to pass" be substituted for the Committee Report "without recommendation."

Sen. DOWNING: What HB 32 accomplishes is to change the breakage. It raises the take to 18% from 17% for the greyhound racing and where currently the breakdown is 51½% to the State and 11½% to the track to \$150,000.00, it would change the State breakage to 6% and the track breakage to 12%. The level of \$150,000.00 to \$250,000.00 now the State

takes 9% and the track 8%. The bill before us from \$100,000.00 to \$200,000.00 would go 7% to the State and 11% to the track. The present law is \$250,000.00 to \$375,000.00, 10¼% to the State and 6¾% to the track. The bill before us would be \$200,000.00 to \$300,000.00, 9% for the State and 9% for the track. The present law has over \$375,000.00 10¾% for the State and 6¼% for the track. This bill would make that over \$300,000.00, State 10% and track 8%.

That is a lot of numbers to deal with. To tell you what it means to the State so far as income goes — if this plan had been in effect since racing started in July, to date the State would have realized additional revenue of \$216,659.26. That was testified to by Mr. William Hostetter who is a Commission Investigator and he submitted the report to the Committee.

Of course, this also is going to increase the income of the track owners, but, as testified before the Committee, with this additional income they will be able to put more money into the business and generate even more income for the State of New Hampshire.

There has been some talk about lowering the State's take. But generally where you find reference to this, like in Boston newspapers, the State has never been that high so we have taken nothing. The set up as it is now doesn't really offer the incentive to the track owners to put the money into the business, to generate more business and get it up there so we can all make more money than we are making now. The bill before you will do that and rather than getting say 10¾% of nothing, the State will get 9% or 10% over \$300,000.00. I urge your support.

Sen. JOHNSON: I could not quite understand your figures. You first said 7%. My slip reads 6½%.

Sen. DOWNING: You are reading the bill as originally proposed. It has been amended.

Sen. JOHNSON: I believe the actual handle is around \$200,000.00 a night. Could you tell us what is the split to the State on the current procedures and what it would be under the new procedure?

Sen. DOWNING: \$200,000.00 presently for the State

would be \$12,750.00; under this bill, it would be \$13,000.00.

Sen. JOHNSON: How much is the track's share increased?

Sen. DOWNING: From \$21,250.00 to \$23,000.00. I think the important thing here is to recognize that the State's income will not go down. Nothing is being taken away from the State. In fact, the State's total income should go up and will go up substantially if the track owners realize the profits to reinvest in the promotion of the track.

Sen. S. SMITH: Would you repeat again — if this system had been in effect, how much would the State have gained from it?

Sen. DOWNING: If we had been operating under the system as proposed in the bill before us today since greyhound racing in July, we would have realized an additional income to the State of \$216,659.26.

Sen. S. SMITH: On this same formula, how much more would the track have gained?

Sen. DOWNING: I don't know. I would like to point out at this point that I don't think that is really the question before us. I don't think that is as important as knowing the State will not lose revenue, but will gain revenue and you have a business enterprise, an industry, in the State that you are going to help increase the income to the State. We just finished catching up with the horse racing industry and we were just a couple of years behind doing that and they suffered because of it and State revenues, I think, suffered a little bit because of it. I think we are a little bit in step now relative to dog racing and we are doing something on time.

Sen. PROVOST: You are giving the State more money and you are giving the tracks more money. What happens to the \$2.00 bettor? What does he gain or how much does he lose?

Sen. DOWNING: 1% has been added. Instead of 17% take, the take is up 1% to 18%. As far as the \$2.00 bettor, I guess he probably would get a little less back on his money but he should have a lot better facility and better accommodations to enjoy his evening out.

Sen. SPANOS: I was at the hearing when the individuals

that were sponsoring this measure came in and introduced the bill. I supported its introduction. I wasn't quite sure it was of an emergency nature, but I was convinced by the testimony that it might be. At that time the original House Bill appeared to be satisfactory to those proponents of the measure. Now there is evidence that there has been a significant amendment that is being offered. Could you tell us who offered the amendment that is now before us which changes the original House version?

Sen. DOWNING: To my knowledge, the amendment was developed by the House Ways & Means Committee. We had charts offered to us which were developed by the House Ways & Means Committee. It was further offered in testimony before the Senate Ways & Means Committee that the House Committee was unanimous in its support of that amendment.

Sen. PORTER: A couple of years ago when we were considering the dog racing bill, we were discussing whether or not the 17% or 18% commission was the proper one to attract people and the reason it was kept at 17% was that the bettor had a better chance to receive more money from wagering. Now, do you think, or was there any testimony provided that the 18% at this time will now decrease the number of people coming to the track or do you think because other states have done it, it won't make any difference?

Sen. DOWNING: I think you probably answered your own question. Where other states are moving in that direction, it won't make any difference to the bettor except the facility itself should end up being a better facility, a greater attraction than it is now.

Sen. PORTER: As I pointed out during the hearing, I went through a series of numbers and disagreed with the \$216,000.00 additional that the State might receive if the new formula were in effect. I support the concept of changing the structure and I have an amendment which I will provide after this bill is on Second Reading, but one of the things that seems to be coming through is that, as the take goes up, the State's share does, in fact, go down. I was curious if you had gone through a series of numbers for the \$300,000.00 day, the \$350,000.00 day, etc. to see what the State's share will be compared to what it is now under those same conditions.

Sen. DOWNING: The State's share now, when you get over \$300,000.00 is negligible because it is not really happening, certainly not with any frequency. The highest day that there has been is \$322,000.00 with an average of \$200,000.00. Now, you know, there is an argument the reason why we are not getting up over \$300,000.00 or \$400,000.00 is because it is not worth — there is no money to reinvest, to promote and do the other things you need to do to expand the facility, to handle this type of business or to promote that type of business. This gets back to what I said earlier, it is fine, the State can get 10%, the State can get 16% and the owner too of all over \$500,000.00. But if you never get over \$500,000.00, you've got 16% of nothing as against 9% of \$300,000.00.

Sen. PORTER: Even though you might want to make a more agreeable rate of exchange between the State and the track, wouldn't it be better for 10% and 8% for example on \$300,000.00 or above \$200,000.00 and that way there would be an equally responsive share between the two recipients. In other words, for example, at \$350,000.00, the State will lose about \$500.00 a day and over a 200 day season this would come to \$100,000.00; whereas, the track with the percentages applied in HB 32 would gain \$4,000.00 a day and would end up with an \$800,000.00 increase over the year. It just doesn't seem this is a compatible shift in the priorities when they are certainly growing toward getting greater crowds and attracting greater crowds. It would just seem you could have a better percentage.

Sen. DOWNING: You are correct — a better percentage would be ideal, I guess, but how practical it is is something else. The need is to make the rewards to the operators of this industry sufficient so that they will have the funds to reinvest, to get you up over those figures you want to get up over. And, if you don't get over those figures, you can have any percentage you want, but it is a percentage of nothing because you never arrive there.

Sen. LAMONTAGNE: At the present time, there is no amendment that is being proposed by the Committee? The amendment we are speaking about is one adopted by the House, is that correct?

Sen. DOWNING: Yes. This is as the bill came to the

Senate from the House — that is what we are discussing now. There were two amendments that were offered at the Committee hearing and the Committee considered them but did not want to include either one.

Sen. LAMONTAGNE: So our Committee did not adopt any of these amendments?

Sen. DOWNING: No.

Sen. LAMONTAGNE: Talking about the figures of \$350,000.00, this is not the take the State is now getting; that is just an estimated figure, isn't it? Estimating what might happen?

Sen. DOWNING: I think we were discussing potential levels of betting on a given day or a given time period at the track operation. The \$216,659.00 to which I referred is what the State definitely would have realized if this bill had been in effect since the inception of greyhound racing.

Sen. BRADLEY: I do not understand this area very well. But, if it is such a good thing to go to 18%, why isn't it just as good to go to 19%? Wouldn't we make more?

Sen. DOWNING: The balance is being competitive with the other track operators. Your bettor wants to know he is going to get so much return for his money and that return is determined by how much money you have left after you take out the operating costs, being in this case 18%. It was 17% and raised to 18%. If we go to 19%, the bettor would rather go to a track where it is 18%, theoretically at least, because he is going to get more money back from his bet.

Sen. BRADLEY: Then the dogs in that regard have been more competitive and should have been attracting the bettor. Right?

Sen. DOWNING: Yes.

Sen. BRADLEY: If you say going to 19% is going to discourage people from coming —

Sen. DOWNING: I say it could discourage some bettors. I think it would discourage the big, the real heavy bettor, rather than the average bettor.

Sen. BRADLEY: But you are not worried about that happening going from 17% to 18%?



Sen. DOWNING: No, because other states — the competition is doing the same thing.

Sen. BRADLEY: Is there anything magic to the 18% or is this just somehow what others are doing? How did other people arrive at 18% as the right kind of take?

Sen. DOWNING: It is the rate that is established by the competitive situation that exists.

Sen. TROWBRIDGE: One of the principal features of HB 32 is to provide more income to the tracks when they are having *low* handles rather than high handles. Is that correct? In other words, their start up costs, their basic operating costs when they have a poor day, one of the things they are really suffering from is a poor day rather than a \$300,000.00 day. Is that not correct?

Sen. DOWNING: I think it does both things. I think it addresses itself to the total program.

Sen. TROWBRIDGE: But we can agree, and I don't think there was any disagreement at the hearing, that what this would do would be to give the Hinsdale Track, which is running at about an average of \$100,000.00 a day more in the beginning to offset their regular costs per day. Is that not true?

Sen. DOWNING: It does do that and the Hinsdale people are very much in favor of the bill as it was before us.

Sen. TROWBRIDGE: Once the track — any track — gets up above the \$200,000.00 level and starts out toward \$300,000.00 or \$400,000.00, there is no question that they would be getting, under this bill or any amendment that might be coming along, a considerable amount of revenue per day that would be more than adequate to help them expand their facilities. Once they are already at \$200,000.00 a day there is a considerable amount of money coming into that track. That isn't the problem, is it, if they are at \$200,000.00 a day?

Sen. DOWNING: I think it is. I don't think there is any end to an expansion or promotional program. I don't think there is any end to a very progressive organization making money. Nobody cuts it off and says O.K., we made half a million dollars this year so we are satisfied, we don't want any more than that. If they can make a million, they are going to make

a million. If they make ten million, they are going to make ten million. And giving them the funds to urge them on to do this makes it better for us because the more they make, the more we will make.

Sen. TROWBRIDGE: But the question was — there is no hardship at that point, there is no hardship that we are making up at that point. It is merely a matter of saying, how does the State and the track split the franchise which the State has given and how do they maybe encourage that franchise? But it is no longer a hardship situation.

Sen. DOWNING: I would say it is not a hardship situation. I agree with you there. I wish to say it is a very wise business investment though.

Sen. SPANOS: There was a rather unlaudatory article in the *Boston Globe* on March 17, 1974 entitled "Dog track puts the bite on N. H." Did you read it?

Sen. DOWNING: Yes.

Sen. SPANOS: I was just going to ask about one part of it, if I may. It says as follows: "Should this substitute bill clear the N. H. Senate and be signed by Gov. Meldrim Thomson, nearly a half million dollars in additional gross revenue will be realized by the one percent boost in the takeout for a similar summer-fall-winter dog meet at Seabrook in 1974-1975. \*\* Yankee Greyhound will get some \$400,000 of this and the state of New Hampshire less than \$100,000." Do your figures break out that way?

Sen. DOWNING: I tell you, it was such a discouraging experience reading Mr. Farrell's article. There was so much erroneous material contained in it, it really gets to be a little disgusting. I did not actually take his figures and research that particular aspect of his article. I did not get beyond where he talked about the cheap help at Seabrook when, in fact, like on the \$2.00 clerks there they are getting 50c and 35c for the clerks in Raynam. I don't know what makes Seabrook so different; what makes them so cheap. He talked about dogs — second rate dogs. The dogs from Seabrook are going to Raynam, which is recognized as one of the finest tracks in the world. So, when he gets into the numbers game, there he starts dealing with higher ratio areas like \$400,000.00, that we can't

even realize, I don't think it should be a concern of ours that a private enterprise is going to make profit, going to make money. Hopefully we will stimulate the business to make more money for the State. I think Mr. Farrell is probably too used to the political situation down in Massachusetts where he works and he probably ought to confine his articles to there because I don't think he understands New Hampshire people at all.

CHAIR: We have had copies of Representative Coutermarsh's answer to that article, together with the Farrell article, reproduced and copies will be passed around so that you will have both sides of whatever was said in the newspapers on this issue while we are having debate.

Sen. BLAISDELL: Senator Porter, we in this State depend upon revenue from these race tracks to do all the things we should. Do you believe, as a State, that we have given enough consideration to the people who invest the money in these tracks? I take as an example — if you were a stockholder in Rockingham Racetrack, would you be satisfied with the \$325,000.00 that they made last year?

Sen. PORTER: It would depend on how much I had invested. I understand that the investors in Seabrook planned to spend a couple of million dollars and I understand further that they had to finally end up investing nearly \$4 million, nearly double what they intended to. Many of us making investments of this nature might find that costs have escalated over the years. I would want to get the maximum investment return I could within legal bonds and I intend to vote for the bill. I intend to vote for the ought to pass recommendation of your Committee. I am just going to try to change it a little bit so that it is more fair to the State of NewHampshire as I view it, having gone through some of the numbers, I am trying to understand — having never been to a race track — just exactly which way would be more fair, not only to the owners, but to the State and the people we all represent. The answer is yes.

Sen. CLAVEAU: Senator Downing, in reading David Farrell's article, it seems to be a little bit one sided. Do you know whether Mr. Farrell has any interest in Wonderland Park because they no doubt are losing some revenue because of Seabrook.

Sen. DOWNING: I have no idea where his interests lie. I think we would all be better off, and he would too, if he were to confine them to Massachusetts.

Sen. LAMONTAGNE: I would like to say that I don't feel the article which was in the *Boston Globe* should have any bearing at all on how we are going to vote here today. Personally, I think the Ways & Means Committee, of which I am a member, has listened to the charges which have been made in that article and, so far as I am concerned as a member of that Committee, I think it was all explained and I don't see why this article in the *Boston Globe* should have any bearing at all on the way some of us will be voting today. The sponsor of the bill, Mr. Coutermarsh, came in and defended the dog racing bill and even his remarks, I thought, were very fair and he really explained the whole thing and, as far as I am concerned, I don't see anything wrong at all. I feel on the proposal before us, our Committee on Ways & Means did everything in doing what was right and in asking the necessary questions for the benefit of the State of New Hampshire. As far as some of the figures we have, it is only a formula that we have before us and it came before the Ways & Means Committee and that formula has yet not reached the \$350,000.00 so it is only a figure. Right now I feel we should act on this bill and pass it, again, I will repeat myself, without even thinking about the article that was printed.

Sen. PRESTON: The Senator from the 1st District reiterated my feelings. I don't think we should grant any more time or courtesy to this article which, by sheer coincidence seemed to appear within these Chambers yesterday and this morning, the day before and the very same day this hearing was to be held. I perhaps overreacted. I got a copy of this through the mail and called Mr. Keelan to question him on three or four articles here. He came before the Committee this morning and explained in detail how erroneous this article was and indicated, as I am sure we know, that the New Hampshire Legislature is not in anyone's pocket. I think the Committee has stuck to the details and the merits of the bill and I think we should judge it on that basis.

Sen. PORTER: I rise in support of the motion before us and will offer an amendment changing some of the rates following the adoption of that motion.

I too received a copy of the article, as did Senator Preston, and reviewed it pretty thoroughly. There are several errors contained in it and he is way off base in some particular areas. But, if you go through carefully the law as it presently exists — the breakdown, etc. of the percentages the State will receive and the track will receive and compare that with what is projected in the new bill, it is interesting and though I think it is just simple arithmetic, some of the numbers led me to a different conclusion than was brought in to the Committee today, which I heard in Ways and Means, where they predicted there would be a \$216,000.00 additional amount had this new rate been in force before. Quite simply, I took the basis on a \$200,000.00 take, which is roughly the average that Seabrook is doing with Hinsdale being about half of that, so I did not include all of theirs but I got about two-thirds of the total. But what really bothers me is the fact the State would tend to receive roughly from a \$200,000.00 take, roughly \$250.00 a day additional with the new bill and the track would receive \$1,700.00 a day. That is the front end part. At \$250,000.00, that \$250.00 would stay the same and the track would go to \$2,250.00 so they have changed quite a bit. And over the period of a year, based on a 200 day racing day, trying to keep everything in the same light, the State would tend to increase only about \$50,000.00 whereas the dog track itself would increase its earnings \$450,000.00. I have no quarrel with that; I am not disagreeing. This front end loading encourages the smaller tracks to grow and, in fact, meet the higher levels, higher plateaus that they want. In conversing with one of the gentlemen from the dog track, he predicts that they will be reaching fairly steadily the \$300,000.00 to \$350,000.00 area, possible late this year and that is in the very foreseeable future and possibly the next Session of the Legislature might want to make some other changes. But at \$350,000.00 is where things start crumbling. At a \$300,000.00 daily take, the State would get \$375.00 a day less than they make today and the track would get \$3,375.00 more; otherwise a total range of \$3,600.00. This comes out to \$75,000.00 a year less for the State and \$675,000.00 more for the track. You take it up one more notch up to \$350,000.00 a day take and the State at \$500.00 a day less comes out \$100,000.00 a year less than they take today, whereas the track would tend to take \$800,000.00 more than they take today and that just doesn't

balance out. My arithmetic is certainly subject to question and I don't think it is quite fair all the way around. I think that is a more reasonable percentage.

I am concerned that the bill had a hearing at 11 o'clock this morning and here we are a couple of hours later debating. I did not even have a chance to speak to the Chairman to present my amendment to him and I would urge that you consider my amendment carefully. It may not be the perfect solution, but I think it would give a fairer cut for the track and for the State. It would insure that front end load for the track, for the smaller tracks, and I think it would be fair to them.

Sen. LAMONTAGNE: This morning you were at the hearing before our Committee on Ways & Means?

Sen. PORTER: I was. I heard most of it.

Sen. LAMONTAGNE: Why didn't you submit your amendment to the Committee when you were there?

Sen. PORTER: I did not have it. I just got it about five minutes ago. It is a very simple amendment.

Sen. LAMONTAGNE: But while you were there, you must have had this idea. Why didn't you submit it to the Committee so that we would have some idea of what you wanted?

Sen. PORTER: Well, Senator, I have learned from you, watching you operate, that sometimes you might have to ask for a Special Order or something. I was able to secure an amendment in time, however.

Sen. PRESTON: We agree that the track is now averaging about \$200,000.00. Under this new formula, the State would be obtaining \$13,000.00. You are assuming that they reach the \$350,000.00 figure, then the problem you are pointing out is the State's return would be twice what they would receive at \$250,000.00. But, isn't it true that in order to achieve that figure, there is capital investment required which will mean expansion of the track, etc. to do this type of business you are pointing out?

Sen. PORTER: I don't believe so. Today the tracks are getting roughly 2,200 people per day during the weekdays and they are betting roughly \$100.00 a person and that is giving them roughly a \$200,000.00 handle per day. On weekends, they

are handling up to 3,500 people, betting around \$60.00 a person and, as we know yesterday I think it was the highest one they got and that was a weekday — the highest handle in their history — \$322,000.00 or something like that. So, apparently they can absorb the people in there and, in fact, with the amendment I will propose, plus the law that is presently on the books, the front end is increased — that lower element is increased and they are getting increases. They will have the expansion money they might need for capital equipment, expansion, etc.

Sen. PRESTON: Were you present this morning when they indicated it might be half a dozen times the take has reached that figure. So you might be talking about six days at that capacity.

Sen. PORTER: I realize it is limited at this time. They have had a problem of bringing people in by bus and all this extra expense. In fact, they even have to heat the track to 38 degrees.

Sen. BLAISDELL: You say you have not been a frequent attendant at the track.

Sen. PORTER: I have never been to one.

Sen. BLAISDELL: How can you say then they are not going to have to expand with an increased handle. I am not really a frequent member of the track association but I can tell you this, I have been there when the windows have been shut off and people get angry.

Sen. PORTER: I did not say I did not think they would have to expand. I think I said they can obviously handle the 3,500 people they are having now on the weekends at Seabrook and that is because I asked the gentleman who was acquainted with Seabrook and they are able to handle the take that they did, in fact, handle. And he did say further that they were like ants there and they were crowded.

Sen. BLAISDELL: I would like to debate the question with him because I don't believe they can handle it and handle it properly and satisfy the customers.

Sen. Preston moved the previous question.

Adopted.

Motion to substitute adopted.

Sen. Porter moved adoption of an amendment.

Sen. PORTER: I have spoken all I really need to speak about the amendment except to explain what the amendment does. I can speak in two ways. I can speak very straightforward and tell you that the amendment keeps it at 18% but changes the State and track cut above \$200,000.00 so from then on above \$200,000.00 the State gets 10% and the track 8%. That is simply what the amendment does. Or I can do with figures and say that in the present law the cut from the State is lowered to 10% and the cut to the track is raised by 1¼%. The real way to look at it is from \$200,000.00 on up, the State gets 10% and the track gets 8%. That is simply my amendment. I am not sure it is sophisticated enough to carry through in the long range and I sincerely believe that next year in the Legislature someone can look at this and see if it might go equal — 9% and 9% or something like that. It doesn't hurt that front end share where the tracks will get their bigger portion of the take so they will have exactly what you have well explained and what they desire to achieve — capital equipment expansion. I would urge adoption of the amendment.

Sen. FERDINANDO: As I understand correctly, after listening to the debate on this, the track right now is averaging \$200,000.00.

Sen. PORTER: Seabrook.

Sen. FERDINANDO: The purpose of this bill is to encourage the track to build bigger facilities which, in turn, would mean more income for the State. If I understand the amendment correctly, I think Senator Downing sort of covered it a little earlier, if you are talking about 10% of nothing, is it better to have 9% of something rather than have 10% of nothing? Isn't this what we are doing if we adopt this amendment?

Sen. PORTER: No. You are confusing some of the numbers. I think if you look at it correctly, in fact the track is rising from 8% to 10% on the lower order of numbers and is going from 6¾% to 8% on the higher ones. That is the way I chose to look at it.

Sen. FERDINANDO: The purpose of this bill, as I understand it, is to encourage the track to develop, get bigger, hire more people, make more money for the State.



Sen. PORTER: That is why we have given them a larger percentage to help do just that.

Sen. FERDINANDO: But if your amendment reduces the amount that the track can make after \$200,000.00, in essence you are discouraging expansion of these facilities where the way the original bill went to the Committee the purpose of it was to encourage them to try to maintain an average of \$300,000.00 or \$400,000.00 or \$500,000.00. Now this amendment, as I understand it, does just the opposite because the track will make less money. It doesn't pay for them to try to get into that \$300,000.00 or \$400,000.00 or \$500,000.00 category.

Sen. PORTER: To answer your question — as I see it, they will make more. I believe that. But they will not make as much more with my amendment as they would have under the previously amended version of the bill. It is a better distribution to the State. The State will make more and the track will make more and we will have a fairer distribution.

Sen. FERDINANDO: My understanding of the amendment is that in essence it defeats the purpose of what the intent of the original bill is. What we are doing is by them taking a lower percentage it defeats the purpose of giving them an incentive to want to get larger and, as a result, if they don't get larger there is less income for the State and I think everybody is the loser. I can see that this amendment might be something that we ought to consider next year at some point but, at this point, I hope we go along with the regular bill.

Sen. PORTER: Are you aware that under the present bill that is coming in from the House, the one passed by the Ways & Means Committee that they had the hearing on this morning, that the State takes on greater than \$350,000.00 — and I grant you that won't happen probably until the end of this year — will make \$100,000.00 less than they do right now. In fact, you are yielding that off to the tracks. Why should the State make less?

Sen. FERDINANDO: My understanding is that in no way will the State make less money. If a \$300,000.00 level is maintained it will be maintained because of the incentives of the bill we pass in the original form. If you lower the formula, I think the testimony that I heard is that had the original bill — the bill that we just passed a few minutes ago — been adopted, the State

would have made \$216,000.00 more. The question here is, our consideration should be to try to make the whole program a workable program that makes more sense rather than take a chance on an amendment which is not very clear to me.

Sen. GREEN: I have not had an opportunity until just now to take a look at Senator Porter's amendment. As a member of the Ways & Means Committee, this morning in hearings I voted in favor of HB 32 and took into consideration the figures that appeared at that point in time as being accurate. However, I do believe that, as has happened in other situations in which I have been involved, when there is a real serious question as to what effect it is going to have, I think sometimes it is important for the Committee to have an opportunity to study the new figures that are submitted and to take it under advisement. At this point, I would like to have an opportunity, as a member of the Committee, to take a look at Senator Porter's figures to see what that does to the total picture.

### SPECIAL ORDER

Senator Porter moved HB 32 be made a Special Order of Business for Tuesday, March 26, at 1:02 p.m.

CHAIR: The Chair would request the Senate Finance Chairman to make sure the Finance Committee staff does make the calculations necessary to edify us all on this bill.

### PERSONAL PRIVILEGE

Sen. SPANOS: Your debate today and vote to make HB 32 a Special Order of Business for next Tuesday is complimentary. It indicates clearly that you and the New Hampshire Legislature are concerned about the best interests of the State and are *not* within the sphere of influence of Yankee Greyhound or David Farrell as the *Boston Globe* would have the public believe. If we were so involved, this bill should have gone through easily but, because Yankee Greyhound does not have "unprecedented clout" with New Hampshire politicians, we are ready to look this bill over carefully before acting on same.

My congratulations.

HOUSE CONCURRENCE  
SENATE CONCURRENCE IN  
HOUSE AMENDMENT

SB 19, specifying procedures for termination of residential gas or electric services.

Sen. Bossie moved the Senate concur in the House amendment.

Sen. BOSSIE: The amendment as passed by the House is one sentence as follows: "The conference with the commission may be conducted by writing or telephone if the customer so elects." Before a public utility may terminate, they have to go through a procedure which involves the Public Utilities Commission. The Public Utilities Commission has suggested this amendment so that people who live up in Littleton or Berlin, away from the City of Concord, would not have to travel to the City of Concord to have this conference. Basically this provides it can be in writing or via the telephone.

Adopted.

RECESS

AFTER RECESS

SPECIAL ORDER

**HB 5**

relative to the office of energy administrator. Ought to pass with amendment. Senator Jacobson for Executive Departments, Municipal and County Governments.

AMENDMENT

Amend RSA 339:43 as inserted by section 4 of the bill by striking out same and inserting in place thereof the following:

339:43 Appeal. On appeal by any interested party, the governor and council shall hold a hearing and may modify or rescind any rule or regulation made by the energy administrator. Any party aggrieved by a decision of the governor and council with respect to any rule, regulation or ruling of the energy administrator may appeal to the supreme court, which shall determine the validity of such rule, regulation or ruling.

Sen. JACOBSON: The Committee amendment simply changes the appeal procedure whereby anyone who is aggrieved by a rule or regulation of the Energy Administrator and has that aggrievement resolved by appeal to the Governor and Council could appeal to the supreme court with respect to the validity of the ruling whether it be an arbitrary, unreasonable and totally lacking in the public interest.

Adopted.

(Senator Jacobson in Chair)

Sen. Lamontagne moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

##### An Act

relative to the office energy administrator and providing for said administrator to permit increases in gross weight for certain motor vehicles and a tolerance in overall length of certain motor vehicles.

Amend section 2 of the bill by striking out same and inserting in place thereof the following:

2 Regulations and Authority of Administrator. Amend RSA 339:40 by striking out said section and inserting in place thereof the following:

339:40 Regulations and Authority. The energy administrator shall have the authority to make such rules and regulations with respect to the sale, distribution and use of fuel and electrical energy, including the fixing of prices and standards, as the public good may require. In addition, the energy administrator is authorized to issue special permits for an increase in certain gross weights for motor vehicles pursuant to RSA 263:61-b, and a tolerance in overall length of motor vehicles pursuant to RSA 263:65-e.

Amend the bill by striking out section 8 of same and inserting in place thereof the following:

8 Increase in Gross Weight for Certain Motor Vehicles. Amend RSA 263 by inserting after section 61-a the following new section:

263:61-b Energy Administrator's Authority to Permit Increase in Gross Weight for Certain Vehicles.

I. Notwithstanding the provisions of RSA 263:61, VI, or other laws to the contrary, and pursuant to the provisions of RSA 339, the energy administrator is authorized to issue special permits with the consent of the commissioner of public works and highways to owners or operators of three axle vehicles with drive on two rear axles, to operate with a gross weight of up to 60,500 pounds while operating on the state highway system, excepting those roads and bridges which the commissioner of public works and highways is hereby authorized to prohibit the operation thereon of vehicles issued those special permits. Such permits shall be issued for a specified period of time and subject to any other rules or regulations which may be promulgated by the energy administrator.

II. Notwithstanding the provisions of RSA 263:61, VIII-a, or any other laws to the contrary, and pursuant to the provisions of RSA 339, the energy administrator is authorized to issue special permits with the consent of the commissioner of public works and highways to owners or operators of a combination of vehicle and semi-trailer equipped with five axles with a distance between extreme axels of forty feet, to operate with a gross weight of up to 80,600 pounds while operating on the state highway system, excepting those roads and bridges which the commissioner of public works and highways is hereby authorized to prohibit the operation thereon of vehicles issued those special permits. Such permits shall be issued for a specified period of time and subject to any other rules and regulations which may be promulgated by the energy administrator.

III. The provisions of paragraphs I and II shall become null and void when the office of the energy administrator has been terminated by the governor and council.

9 Energy Administrator's Authority to Permit Tolerance in Overall Length of Vehicles. Amend RSA 263 by inserting after section 65-d the following new section:

263:65-e Energy Administrator's Authority to Permit Tol-

erance in Overall Length of Vehicles. Notwithstanding the provisions of RSA 263:65, or any other laws to the contrary, and pursuant to the provisions of RSA 339, the energy administrator, for good cause shown, is authorized to issue special permits with the consent of the commissioner of public works and highways to owners or operators of any motor vehicle, motor truck, tractor and semi-trailer units, to exceed the overall length requirements for said vehicle allowing a tolerance of up to twelve inches. The owner or operator of said vehicle must have in his possession and display such a permit to any law enforcement officer for a valid defense. Said permits shall be issued for a specified period of time and only if the energy administrator is of the opinion the request is justified. The provisions of this section shall become null and void when the office of the energy administrator has been terminated by governor and council.

10 Effective Date. This act shall take effect upon its passage.

Sen. LAMONTAGNE: The amendment I am proposing is an emergency that the trucking industry is facing. In this bill it is relative to the office of Energy Administrator and provides for the Administrator to permit increases in gross weight for certain motor vehicles and a tolerance in the overall length of certain motor vehicles. This is asking for a 10% increase. In the original amendment that I had just about an hour ago, it had no provision as far as the Public Works Commissioner. Some of the Senators wanted to have the Public Works Commissioner and it has been added into this amendment that these weights would have to be approved by the Public Works Commissioner. At the same time, the Highway Commissioner will also recommend to the Energy Administrator certain routes because of possibly endangering some of the bridges. So far as for the tolerance and the way this is in the amendment, I don't quite agree with it, but I figure I have held up this Senate long enough that I don't feel I want to make any changes. But in this tolerance, it says that you will have to have a permit for the extra length which will not exceed 12 inches. At this late hour to ask them to take the reference of the special permit for this 12 inches which meets with the Highway Commissioner's approval — he has no objections to the extra length — but I feel I want to leave well enough alone and I have taken enough of your time. I hope that you will pass this bill which is asking for an increase in weights of 10% on 3 axles,

4 axles and 5 axles. At the same time, there is no provision for any 5 axles or 90,000 pounds. Therefore, those who now have 90,000 pounds, as we passed in the last session of the General Court the bill I had introduced for forest products, there will not be any 10% increase. I hope that the intent will be clearly understood.

Sen. NIXON: As you know, your amendment has my support. My question to you is I just want to make it clear for the record — as I understand it, the authority that would be given to the Energy Administrator under your amendment subject to the consent of the Commissioner of Public Works & Highways, would be to allow the same types and degree of increases in weight and length that would have been allowed under your previous bill, SB 30. Is that correct?

Sen. LAMONTAGNE: Yes.

Sen. NIXON: Further, that you would be willing, if under the parliamentary procedure the Rules of the House permitted it, that this amendment have a public hearing so that there would be no suggestion that the Senate or anybody in this Legislature would be attempting to have this amendment go through the process without exposure to the public and an opportunity for all concerned to be heard.

Sen. LAMONTAGNE: I would have no objection.

Sen. R. SMITH: I think you said that up until an hour ago, the Commissioner of Public Works & Highways was not in the amendment.

Sen. LAMONTAGNE: I am being honest about it. No, he was not.

Sen. R. SMITH: Does he know about it now or is it going to hit him like a ton of brick?

Sen. LAMONTAGNE: I don't know. The only thing is, I had some Senators who were opposed to it and I needed their vote and, therefore, it has been added.

Sen. BRADLEY: As I understand the idea of the amendment is, as you said, it is an emergency and it is tied in with this energy crisis.

Sen. LAMONTAGNE: That is correct.

Sen. BRADLEY: I note the last sentence just before the effective date the provisions of this section shall become null and void when the office of Energy Administrator has been terminated. That section applies only to the length. I am wondering whether or not this business of the termination when the Energy Administrator is gone also applies to the other section dealing with weight.

Sen. LAMONTAGNE: The intent was for weights and length. We feel as far as for the length and for the weight and the widths will be coming out in the Study Committee which is covered under SJR 3. Therefore, there is a Study Committee that is being organized to study all laws that we now have on the books as far as trucking.

Sen. BRADLEY: This Energy Administrator is going to be in the business of handing out permits for extra weight and extra length?

Sen. LAMONTAGNE: Subject to the approval of the Public Works Commissioner.

Sen. BRADLEY: He may go out of business in another year if we get through the energy crisis. But what will happen to the heavy trucks and the long trucks then?

Sen. LAMONTAGNE: I would say the Special Committee created under SJR 3 will have its report for the 1975 General Court and I feel that possibly by July 1, 1975 we will have a bill correcting many of the so-called laws which have been created for a long, long time and it has been long overdue as far as for the study of these laws we now have on the books. But we will have a bill, I am sure, that will be presented to the General Court in 1975.

Sen. JOHNSON: What is the opinion of the Commissioner of Highways, Robert Whitaker, on this amendment?

Sen. LAMONTAGNE: To be honest with you, I don't know. I did not have the time. As you know, I only had this amendment a few minutes ago and did not have the opportunity to get ahold of the Commissioner. But I am sure the Commissioner is well aware that I had intended to put this in as permits.

Sen. JOHNSON: I have sympathy with your cause here,



but I am a little baffled that the man who is in charge of our State roads has not taken a position on this; has not even been asked to take a position on it?

Sen. LAMONTAGNE: He was at our hearing yesterday and at the same time, he did attend the special truck meeting which we had at 11 o'clock yesterday morning in room 111; he and also Fred Clarke, Jr., Motor Vehicle Director.

Sen. JOHNSON: Would it be possible to get an opinion from the Commissioner about whether he feels this a good thing or not?

Sen. LAMONTAGNE: If you wish to have me call or you want to call for a recess, you may ask the Chair and I will be glad to give him a call.

Sen. PORTER: What does the Energy Administrator think of having these additional duties?

Sen. LAMONTAGNE: I assume the Energy Administrator has to be appointed by the Governor and Council.

Sen. PORTER: What does he think of the extra duties in addition to the present fuel allocation problems, etc. in the State?

Sen. LAMONTAGNE: The top boss — the Governor of our State — is in favor of it and I am sure that whatever he says, he will have to do.

Sen. PORTER: You are suggesting that Governor Thomson suggested that the Energy Administrator be delegated as the principal permit application officer?

Sen. LAMONTAGNE: No, the Governor had absolutely nothing to do with this amendment and this idea of tacking on this amendment to HB 5. This was my own idea. I did a lot of thinking and I had the opportunity because a Special Order had been made and this is when I got the idea of putting it on. Then, I did go to see the Governor and make sure that he would not oppose the idea and I got his blessing.

Sen. CLAVEAU: If this goes to a public hearing, as suggested by Senator Nixon, will the Commissioner be available to speak for himself at this hearing?

Sen. LAMONTAGNE: Yes. I think you have brought up

a very good point. The Commissioner will have the opportunity of being heard and, you have heard Senator Nixon mention and ask me whether I would favor having a public hearing. The truckers of the State of New Hampshire don't mind at all having a chance to be heard and anyone who is in opposition to it will have a chance to be heard. Therefore, it will be heard and at the same time we will be doing it right. Seeing that we are in the closing days, we certainly want to give the House enough time to take action on this bill because it is of great importance to the trucking industry, as well as important to the individual people who are living in this State. Right now the rates of trucking are high enough and these people don't want to increase their rates. They only want to have a decent return for the additional costs they have to pay for fuel and this is only fair for them to have this increase they are asking. I think the bill is well put together and the people who oppose this have agreed this is agreeable to them when I put in my amendment the Public Works and then we mention about the roads and bridges that the Energy Administrator he will have to get the approval of the Public Works Commissioner.

Sen. DOWNING: You referred to a question put to the Commissioner of Public Works and Highways at our hearing yesterday. Wasn't he, in fact, asked the question about deciding what bridges could and what bridges could not carry the increased load and didn't he, in fact, tell us there were in excess of 1,000 municipally maintained bridges and in excess of 1,000 State bridges and that it would be an extremely difficult task, if possible at all, to rate every one of these bridges. In fact, he said it was almost an impossibility to do this — very, very difficult.

Sen. LAMONTAGNE: That is not the way I understood what he said. In fact, the provision in this amendment is taken care of by putting in the Commissioner of Public Highways to make his approval to the Energy Administrator. The safeguard is in this amendment.

Sen. DOWNING: Didn't the Commissioner, in fact, indicate his reluctance to get involved with that type of assessment on the bridges and roads in the State of New Hampshire?

Sen. LAMONTAGNE: I am not aware of it.

Sen. DOWNING: If, in fact, this amendment were adopted

and knowing how the Governor feels, wouldn't this put the Commissioner under possibly unreasonable pressures to conform to something he may not really believe in?

Sen. LAMONTAGNE: This is nothing unusual. We have passed other bills that the Commissioner has opposed. So far as I am concerned, on all these truck bills that we have had, especially in the forest products, I have met with the Commissioner and I would be glad to put into the records that he has helped me and I can't see why the Commissioner can't turn around and help the other side of the industry which has nothing to do with forest products and, therefore, he has the opportunity because we are giving him the power to go ahead and use good common sense, which I am sure he is well qualified in being able to do. He is a well respected man and has enough experience and I know very well that whatever we pass here in the amendment we have now, he will use good common sense and without having pressure from the Governor and Council.

Sen. DOWNING: Didn't the Commissioner testify before our Committee on Public Works & Transportation yesterday also that the only way to increase the pay load on these trucks is to extend the bodies and add axles?

Sen. LAMONTAGNE: That is true. He has mentioned that and this is part of what is going to come in the Study Committee. What we are asking now in this amendment is to take care of it until we have the Study Committee and the Study Committee makes its report.

Sen. DOWNING: The subject needs to be studied before we make a commitment, which you apparently agree with; then why are we now making the commitment after we have authorized the study?

Sen. LAMONTAGNE: We have authorized the study, but right now this is to take care of the emergency until we have the Study Committee report. And, furthermore, let me tell you this and I will say it to all of you and I am not going to be speaking to you about the Truck Owners Association, but I am talking to you about the independent truckers and I am going to tell you right now that if the independent trucks create a strike in the State of New Hampshire, we are going to be in a serious problem and we could pass this here, which meets

their approval, and can avoid having that strike in New Hampshire. I think this is something for not only the Senate, but also for the whole General Court to think about because if there is a strike, you may have to come back.

Sen. DOWNING: Relative to the permits being issued with the approval of the Commissioner of Highways and Public Works and then stating that such permits shall be subject to any other rules or regulations which may be promulgated by the Energy Administrator — once the Commissioner has made a tentative conditional permit, can't he then extend that permit if he see fit without consulting with the Commissioner of Public Works and Highways?

Sen. LAMONTAGNE: The Commissioner can issue some permits which are by law. In fact, I have something to do with some of those permits you are talking about. But right now, the proper thing the thing I thought of yesterday afternoon because I figured this was the right place to put the emergency of this trucking industry which they have been asking. I should never have put in SB 30, but I did not think of amending HB 5. To be honest with you, my intention was to amend HB 24 and in fact the amendment was drafted but, after we had a meeting — and there is no secret about it, we met with Senator Nixon in his office, some of the leaders of the trucking industry, we had Representative Hamel from the Transportation Committee and it was proven to me that it was not the proper place to put the amendment of the truck bill on HB 24. Therefore, I withdrew my first idea and then figured I would let the bill go through as far as the increase in weights on a separate bill and at the same time the Study Committee to be made under SJR 3 as you have already passed.

Sen. TROWBRIDGE: Just for the record, I have never understood why the trucking industry, if they need temporary help, cannot get a temporary rise in rates.

Sen. LAMONTAGNE: There is no question about it, the truck owners did get a 6% increase in their rates, but the independent trucker is a different type of trucking. Personally it would be a hard thing for them to be able to get an increase.

Sen. TROWBRIDGE: Why?

Sen. LAMONTAGNE: Because of competition.

Sen. TROWBRIDGE: Is it not true that the persons who are hauling gravel in the 10 wheelers not only can they get an increase in fuel costs, but they can put on an increase in the product they are trucking, namely the gravel, and get their costs back?

Sen. LAMONTAGNE: Yes. And this reflects back — most of the trucks are hauling gravel for the State and it just reflects back on the taxpayers of the State of New Hampshire.

Sen. TROWBRIDGE: Have you, in any way, figured out how many additional employees are going to be needed in the Department of Public Works and Highways in order to administer HB 5, if it were to pass with this amendment?

Sen. LAMONTAGNE: Let me tell you, there won't be one employee put in to the Public Works Department at all. The only thing it is going to have is the approval of the Commissioner and he will have someone from his staff and he has people on the staff who, I am sure, are well qualified and will be able to take action for the Commissioner of Highways.

Sen. TROWBRIDGE: Do you realize that Commissioner Whitaker thinks that he would need 5 to 6 fulltime employees to administer this act? Are you aware of that?

Sen. LAMONTAGNE: The Commissioner is not going to be issuing the permits. The permits will be issued by the Energy Administrator.

Sen. TROWBRIDGE: When you first began talking about this amendment, you made it clear that you were going to have the Department of Public Works & Highways have the sole power to issue permits. Now I understand that it is the Energy Administrator.

Sen. LAMONTAGNE: If you will read the amendment, you will see that the Energy Administrator must on any permits that are going to come in have the approval of the Commissioner of Public Highways. The emergency is in the hands of the Energy Administrator.

Sen. TROWBRIDGE: If the truckers were to get additional rate increase, there would be no emergency, would there?

Sen. LAMONTAGNE: I still feel there would be an emergency.

Sen. CLAVEAU: Is it true that the real problem is not so much a rate increase but the fact that more freight has to move with less trucks with less gasoline? Freight has to move and the main issue is how much can you move if you only have half the trucks and don't have the gasoline?

Sen. LAMONTAGNE: The problem which has been created is about the extra load and at the same time something that you can't correct by increasing your rates and that is, as you know, the Federal Government has put a speed limit to all trucks and taken their speed limit on some highways from 70 miles an hour down to 55 miles. Therefore, with the 55 miles, it means that it takes more time and it takes more employees and, therefore, they feel they can cover the extra expense by putting on a little more load. They want to travel less. In fact, they have to by law.

Sen. PORTER: The gentleman who called me last night indicated this was the first bite of the apple. I wonder if you could enlighten us as to what the next bite will be.

Sen. NIXON: I speak on behalf of the amendment to HB 5 as offered by Senator Lamontagne and hope that you will see the merits of passing it at this time. Let me briefly give you some background — and I don't know all of it — into the question that is raised by his amendment on the merits. The small truckers particularly in this State and to a lesser extent the organized truckers are facing a financial crisis which they have convinced me has merit by reason of the tremendously increased price of fuel and its relative lack of availability in terms of breaking even. That was reflected in their actions when they surrounded the State House not so long ago. Unfortunately, as a further part of the background, they were made promises by people outside the Senate, outside the legislative process, which those people thereafter made no attempt to fulfill through the regular and ordinary and normal legislative procedures: to wit, filing a bill, or appearing before any one of the several meetings of the Joint Rules Committee, the Senate Rules Committee or the House Rules Committee to request the introduction of a bill to either temporarily or on a long term basis alleviate the genuine and real problems these citizens of New Hampshire were facing, taking into consideration such other material factors as the safety of all travelers in the highways, including passenger vehicle drivers, and

also the condition of our highways and roads and expenses to the towns to repair truck-damaged bridges. This is unfortunate because these gentlemen, the people in the trucking industry, were, in my judgment, sucker punched. But they bought it.

Late in the game — to wit, last week — Senator Lamontagne convinced me and Senator Claveau and Senator McLaughlin that there was merit and I attended one night a hearing at which some of these small independent truckers, not understanding what was going on but understanding only that they had been promised some kind of relief and were assured it would be forthcoming, but nobody had advised them that they ought to seek the assistance of their legislators until they got to the Senators I mentioned. They convinced me that there was some merit to their cause. And, for the reason, as Senator Lamontagne has now twice publicly said on this floor, I requested that he meet with me in my office, together with representatives of the trucking industry, Mr. Decato; Stanley Hamel, Chairman of the House Transportation Committee and representatives of the AAA — these being, in my quick judgment and the time available to us, which was not much, the people and individuals with interests primarily concerned with the issue before us raised by these problems. As a result and on my advice, on that same day last week — Wednesday, I believe — Senator Lamontagne with the assistance of Legislative Services had prepared SJR 3 and SB 30 for consideration by this Senate, brought them to the Senate Rules Committee — Senator Poulsen, Senator Spanos and Senator S. Smith — and obtained their consent to attempt the introduction of those bills for late consideration under the rules. SJR 3, the Resolution we adopted, provides for the long range situation by setting up a Study Committee hopefully which will have represented the various interests I referred to. At my specific suggestion, the Attorney General or his designate; the Chairman of the Traffic Safety Commission or his designate; and the General or State Manager of the American Automobile Association or his designate were included as members of that 17 man Committee which will elect its own chairman; three members of that Committee, by the way, being appointed by the President of the Senate. It is good that Resolution was adopted and the long range difficulties on this problem are under consideration and will be by that committee. One reason specifically why that was a good Resolution is there had been little or no amicable, reasonable, friendly communication

among the various interests involved in this process, specifically the AAA on the one hand and the trucking industry on the other. It is time they realize the people of this State are caught in the middle of this back and forth situation usually involving quite vitriolic press releases and they have not benefitted from that kind of thing.

So, the lines of communication are hopefully established by the Senate's wisdom in its adoption of that Resolution. But that did not alleviate what I believe to be a problem of current crisis which is, again, the difficulty in obtaining fuel at reasonable costs and the problem of attempting to raise prices to meet those costs, which is difficult for this small, but I think important, group in our economy. The amendment now before you would help alleviate that situation in that the Energy Administrator, with the Commissioner of Public Works and Highways, would be allowed to issue temporary permits to permit increases in lengths particularly and weights within the dimensions which were allowed by SB 30, and, by the way, would only exist for the duration of a crisis as determined by the Governor and Council but only with the consent of the Commissioner of Public Works & Highways who certainly has the expense of repairing bridges and their maintenance in his mind as a primary consideration. I am further in favor of this amendment at this time because we have Senator Lamontagne's word and the agreement of the people interested in this amendment that this amendment and HB 5 in connection with it will have a public hearing on the House side. And I assure the members of the Senate that I will use whatever influence my office has to see that when this bill, if it is adopted by this Senate, goes to the House, there is a non-concurrence in the amendment for the purpose of setting up a Conference Committee to which I will have the honor of appointing three members. One member will be Senator Lamontagne and another member will be Senator Poulsen so that both interests, you might say, would be represented on that Conference Committee. That is the reason and that is the rationale why I would support this amendment at the present time.

But I would say this further. One additional reason is I don't want to see this Senate be the victim of any more cheap shots or weekend publicity about refusing to hear the views and hear the opinions and hear the problems of those in the truck-



ing industry because it never has been true and, if they think that type of thing will be tolerated in this body, they have another thought coming and that comes from one who used to drive a truck.

Sen. DOWNING: Are you aware that a hearing of the Public Works Committee on SJR 3, we did hear considerable testimony from the truckers relative to what they see as their problems and the need to remedy them and suggestions for remedying them?

Sen. NIXON: Yes I am, but I am also aware that the hearing was so set up that not much public notice of it could be received and I am not sure that all sides of the issue had the opportunity to be well represented and to be well heard.

Sen. DOWNING: What makes you feel that the appointment of Senator Lamontagne and Senator Poulsen would represent both sides on a Committee of Conference?

Sen. NIXON: I know both gentlemen. I know them both to be honorable and I know how they feel on this issue. And I know they both are reasonable and have the public interest of our State primarily in mind on any issue.

Sen. DOWNING: If the Senate were to allow this amendment and even though it goes to a Committee of Conference at a later time, doesn't it then place in jeopardy the content of HB 5, if in fact this becomes attached to it and they don't want it, the only alternative then would be to vote down the content of HB 5 which they obviously intend to approve at this point and/or accept this along with it?

Sen. NIXON: That is a good question. It is a possibility. I don't think in this case it is a probability.

Sen. SANBORN: I think that most of you here know that I have opposed Senator Lamontagne's heavy trucks about as strongly as anybody on this floor. However, sitting in on the hearing yesterday on SJR 3 and listening to the truckers and realizing there is a fuel shortage, I am convinced that something should be done to help these people out. As has been suggested here, they could raise their rates. However if they raise their rates, who is going to pay it — the public. The truckers are not. They are going to pass it on to the goods they are delivering and it is the public in the end who is going to pay the in-

creased rate. They convinced me that if the weights are increased that 7 trucks will then be able to haul the load now being carried by 8 trucks, therefore, decreasing the use of our valuable energy. When it comes to the Commissioner of Public Highways — in the hearing he mentioned that there are in excess of 1,500 bridges in the State of New Hampshire that are rated as W-15 bridges. In other words, there should not be over 15 tons on that bridge.

After the meeting was over, I talked with Mr. Whitaker outside the committee room and discussed this business, knowing of Senator Lamontagne's probable amendment and asked if he could designate the roads and bridges that should not be traveled by these heavier loads and he said, no problem. That is the indication I received from him. As for saying that he needs 5 or 6 extra people, I doubt this because I think a few of the older ones here may remember it wasn't too many years ago Public Works & Highways used to post the roads in the Springtime and say you can't have this weight on this road. I am convinced that Public Works and Highways has the information on all our Class II highways and all the bridges that are on those highways and knows what weights they can withstand. When this amendment first came up, I refused to accept it until the words were put in "excepting those roads and bridges which the Commissioner of Public Works and Highways hereby authorizes or prohibits the operation thereon of vehicles issued those special permits." This gives the Commissioner of Public Works and Highways the authority to prevent these heavy trucks from smashing up those roads and those bridges that are not acceptable to the increased weights. With this in here and with this safeguard, I will not support this amendment.

Sen. POULSEN: Was it not part of the testimony that many of the trucks that would be involved with this overweight were trucks that don't use a bridge at all — they were trucks that haul sand, gravel, salt on real short runs that had no bridges involved whatever?

Sen. SANBORN: This is absolutely correct. In fact, one trucker indicated that the maximum length of his haul was 3 miles and did not cover a bridge.

Sen. S. SMITH: In this amendment, it talks about the Energy Administrator's authority to permit tolerance in overall

length of vehicles to 12 inches. But then I notice the last sentence — “provisions of this section shall become null and void when the office of the energy administrator has been terminated by governor and council.” Does that mean in effect that when this energy crisis office of Energy Administrator terminates by act of the Governor and Council that all these trucks will have to be shortened?

Sen. SANBORN: No, I wouldn't say that. Insofar as that is concerned, you may notice the sentence above that — “since permits shall be issued for a specified period of time and only at the energy administrator's opinion the request is justified.” This is in there for the purpose and again at our request that this not go on forever. This is only for a short period of time during the energy crisis. It was pointed out to us that they expect this crisis will continue for another year or two and, at that time, we fully expect that the Committee selected under SJR 3 will have come back to the 1975 Legislature and provide them with a bill that will, in effect, do away with all of this and have squared away for all time many of these laws we now have on the books.

Sen. S. SMITH: But, by this permission of allowing a 12 inch overall extension does this not mean that truckers will be buying equipment with this extra 12 inches and then coming in and saying, we have this equipment, we can't go back?

Sen. SANBORN: I don't anticipate this.

Sen. SPANOS: First of all, I want you all to know that I don't know the difference between an axle or a carburator, nor do I know anything about fat trucks or thin trucks and I am not like the President of the Senate who drove a truck — I don't even drive a car. But I do understand human needs and I do understand that in this situation, in these times, in the energy crisis that there is a small group of industry — the trucking industry — that deserves our consideration and understanding. Also the consumer deserves our concern and understanding. Not only can we avoid the possibility of a strike which, as you know, caused considerable concern to the people of the United States some time ago, it will help eliminate and alleviate increased costs. That is the major reason and because of that, I support the merits of this amendment.

I do have another concern though somewhat like that

voiced by President Nixon that I am also dismayed by the article which appeared in the *New Hampshire Sunday News* which was extremely critical of the Senate charging the Senate with playing "anti-Thomson" politics. The article really was more a political advertisement for the Governor than it was in discussing the merits of the trucking industry. Actually, when you come right down to it and take a look at the Roll Call vote that day when Senator Lamontagne attempted to introduce his bill, the vote was 10 to 8 — 10 opposing and 8 favoring introduction of the bill. Of those 10 people who voted against the introduction many have supported the Governor at least more than the majority of the time and yet opposed introduction of the bill. Of the 8 who voted for the introduction of the bill, two happened to be members of the four horsemen, as indicated the other day — President Nixon and myself. I bring out this point to let some of the people know who are involved and interested in this measure that the Senate does do its work and does believe in itself and acts responsibly on the issues before it.

Politics does play a role occasionally but not when it comes to the immediate concerns and needs of the people of the State. I so informed one member of the group. I met him out in the corridor and I tried to tell him that many of the Senators voted against the bill because it had not come through the normal legislative process, that it was an attempt to suspend very significant rules that we had established to conduct this legislative session and they were not ready to adopt legislation which was coming in at the late hour. I was critical and I pointed it out to the gentleman that I thought that the person who should have had this bill in here at the outset of this legislative session was the Governor, who had met with these men and had made these promises to these men. This should have been in way back then when we were introducing these bills and the Joint Rules Committees were meeting, but it never came. As a matter of fact, I don't know that any bill ever came from the Governor's office for this entire legislative session. So, if there is going to be any criticism heaped on anybody, it should be heaped on the Administration. I want you all to know that I believe that this bill is a good bill to take care of these emergency needs of these people. I hope you will go along with it. I join with President Nixon in letting him know that I ask for a hearing on it so that our honorable brethren across the hall will know that the Senate is not up to any "sneaky petes" and I want you to know that I

will do all I can to see that gets through to the House that we are not interested in trying to pull anything, but that this is the only vehicle that we have now in order for these men to have their day in court. And, more important, I hope you will accept this amendment offered by Senator Lamontagne if only we can restore some faith in the people, the men up there in the gallery, the people in the State of New Hampshire some faith in the democratic process and in the promises that we make as political leaders.

Sen. CLAVEAU: I rise in support of the pending motion. We do have an emergency. We do have less gasoline and 90% of the consumer freight and light industry travels by truck. The only freight the railroads will haul is to large industries and nothing less than in car load lots. So everything has to move by truck. If you have a gas shortage and you can only use half the amount of trucks you have, you have to be permitted to carry a larger load of freight. A larger weight does not necessarily mean a larger truck. The very same truck can carry more weight without being larger. It is just that they need that legal allowance to do it. You can talk about cost of highways. Well, there will be an additional charge. I believe if a truck registers for around 80,000 pounds they are paying around \$64.00 per unit in addition to what they are paying now. There has been a lot of talk about bridges and highways. Well, I have been in the transportation business 26 years and most of my travel has been at night. Believe me, all of these heavy trucks travel at night. And they travel every place and I have not heard of bridges collapsing. This goes on time and time again and I don't think the State is going to be involved in weighing these trucks. But this goes on and as far as the fear of bridges collapsing, and highways being torn up, I think this is passed. This has been being done for years. If this is passed, you won't notice any damage at all. I think this is most important. If you don't pass it, you will find a lot of empty shelves in your grocery stores, you will find light industry that can't get merchandise and they are laying off people and this is the only way to handle this. Have no fear about bridges and highways.

Sen. Blaisdell moved the previous question.

Adopted.

## ROLL CALL

Roll Call requested by Senator Lamontagne. Seconded by Senator Nixon.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Bradley, Spanos, Nixon, Blaisdell, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Preston and Foley.

Nays: Sens. S. Smith, Green, Trowbridge, Porter and Downing.

Result: Yeas 18; Nays 5.

Amendment adopted.

Sen. Trowbridge moved adoption of an amendment.

Sen. TROWBRIDGE: This occurred to me yesterday and I bring it up for your consideration. Under the bill under Regulations, it said that "The energy administrator shall have the authority to make such rules and regulations . . ." I have put in this proviso — they have authority to make rules and regulations "provided, however, municipalities shall not be compelled to accept any such statewide rule or regulation if the governing body determines that local conditions do not warrant implementation and promptly notifies the energy administrator, with respect to the sale, distribution and use of fuel and electrical energy, including the fixing of prices and standards, as the public good may require."

I bring the issue up in that we found with the gas shortage that there was considerable difference as to how Nashua wanted to handle its gasoline sales, how Keene wanted to handle its gasoline sales, how the north country wanted to handle its gasoline sales, etc. What I am saying is that I think if you pass HB 5 as it is now there could be someone who could come in and say, Nashua must do it odd-even or Concord must do it odd-even, every gasoline dealer must conform throughout the State. So I am raising the issue here as to whether we want to have it that the city or municipality can say, "No, I don't want to go that way, we feel it is better to handle gasoline distribution our own way than by informing the Administrator." They can have local option. That is what I am bringing up here. I don't think it is a life or death amendment but I do think that from the

experience we had in February, we found there were considerable variances within the State as to how you should handle the sale of gasoline and other commodities and I would like to leave it to local option, if possible.

Sen. R. SMITH: I would like to have a clarification — this amendment would not wipe out the amendment we just passed?

Sen. TROWBRIDGE: No, this amendment has done this further along in the bill. It has nothing to do with, and is in no way connected with, Senator Lamontagne's amendment. It does not affect it at all.

Sen. R. SMITH: As I read it, Senator Lamontagne's amendment amended 339:40 and your amendment also applies to 339:40; hence my concern.

Sen. TROWBRIDGE: This would amend the bill the same way his does except in Section 2. All it does is the thing I am talking about — the Energy Administrator shall have authority to make such rules and regulations. I am amending that part of the bill as it has now been established by his amendment. This comes in on top of that but it does not in any way affect the part about the trucks and the Public Works and Highways. It does not affect that at all.

Sen. PORTER: Isn't there a danger in this amendment that on every law passed within the Legislature every local community will then have to ratify? Isn't there a danger that might happen?

Sen. TROWBRIDGE: The only ones that will do it are cities. They would be the only ones that really would have their own plan and they did have their own plan. Every city had just about their own variation and those things change from day to day so that I am saying why can't they do that. When it worked successfully before, why shouldn't they do it again?

Sen. FERDINANDO: If you did not have a state regulation which would be universal for everybody, it would be very difficult. It seems to me, that if you had a special odd-even gasoline situation in Manchester and yet you were traveling to Berlin or Dover and found out they had a different formula, that nobody would really quite understand what was going on. It seems to me the local options would become more confusing in the long run.

Sen. TROWBRIDGE: This last February, that is **exactly** what happened insofar as Brattleboro and Keene. In Keene you could get gas either day whether you were odd or even on your license plate. The situation you describe has already happened. It has been in effect. Nashua had a plan; Keene did not have a plan of that nature — and it worked fine.

Sen. FERDINANDO: Wouldn't it make more sense to have **one** plan?

Sen. TROWBRIDGE: No, it would not make more sense. It made more sense because the people in Keene and the other areas wanted to handle it a different way and they had a different situation. It was only the big city where they had the lines.

Sen. SPANOS: I sympathize with your concept, but I am a little concerned as to the question asked by Senator Smith because your amendment provides that municipalities shall not be compelled to accept any statewide rule or regulation if the governing body determines and so on. Under the amendment of Senator Lamontagne, which we adopted, it does provide that such permits shall be issued for a specified time and subject to any rule and regulation which may be promulgated by the Energy Administrator.

Sen. TROWBRIDGE: Yes.

Sen. SPANOS: It also says the same thing under Section 2. What worries me is could this be interpreted in such a way as the municipality having the right to override the rules and regulations as might be enunciated under Section 1 and Section 2 of Senator Lamontagne's amendment.

Sen. TROWBRIDGE: It does not apply to those rules and regulations. It is only on the sale of gas, not to the vehicles going over bridges. It does not apply to those rules and regulations. It only applies to that part of the bill which says he can set rules and regulations as to the supply of energy. It has nothing to do with that.

Sen. LAMONTAGNE: As you probably know, I am a little worried about sleepers in here so I would like to ask you — will this have anything to do with the amendment that has just been adopted?



Sen. TROWBRIDGE: I have answered that twice, but I will answer it again. This has nothing to do with that part of the Energy Administrator's power over the sale of gasoline or other energy. It has nothing to do with his powers under your amendment to have bridges specified so it is not intended to be in any way a sneaky pete. This was made out long before I ever saw your amendment.

Sen. LAMONTAGNE: As long as you have made the intent of this amendment clear, I feel a little different from what I thought it was going to be.

Sen. TROWBRIDGE: In answer to your question, this is only on the amount and the style in which a community handles the gas shortage. We have variations and I think we should keep it varied.

Sen. S. SMITH: Under this amendment you talk about the rules and regulations — if the governing body determines local conditions do not warrant implementation — would that not be at a town meeting?

Sen. TROWBRIDGE: If it were important enough for a town meeting. I have noticed most of the towns have done exactly what they wanted anyhow. But I am thinking primarily of cities. Maybe I should have put it cities and put in governing body because it is really in the cities that you get the variation between the gas style and I think that is what is important.

Sen. PORTER: I rise in opposition to the amendment. I think it does establish a bit of a precedent for a town if it should not care to agree with rules and regulations — and it might be something relative to plumbing or heating or traffic or some other law we might have. I hope we would oppose this amendment.

Amendment lost.      Referred to Finance.

### SUSPENSION OF RULES

Sen. S. Smith moved the Rules of the Senate be so far suspended as to dispense with notice of hearing, holding of hearing and introduction of a Committee Report not previously advertised in the Calendar on SCR 3.

Adopted.

## COMMITTEE REPORT

## SCR 3

relative to school safety patrol. Ought to pass. Sen. S. Smith for Rules and Resolutions.

## SENATE CONCURRENT RESOLUTION NO. 3

relative to school safety patrol

*Whereas*, in compliance with federal law and in cooperation with energy conservation measures, the state of New Hampshire is operating under eastern daylight savings time; and

*Whereas*, many New Hampshire school children were attending schools which had not changed their starting time for commencement of classes; and

*Whereas*, the starting time for most New Hampshire public schools required that students in grades one through twelve had to leave home approximately one to two hours prior to the period of daylight hours during the winter months to reach school on time; and

*Whereas*, students were exposed to dangers from vehicular traffic and other causes of accidents prone to happen during the hours of darkness; and

*Whereas*, the incidence of pedestrian accidents is greater during the hours of darkness and during periods of cloudy, foggy, or inclement weather; and

*Whereas*, within the period of time since the state of New Hampshire reverted to daylight savings time on January 6, 1974, there have been several accidents of record which have resulted in the injury or death of students who were waiting for buses or walking to school.

*Now, Therefore Be It Resolved* by the Senate, the House of Representatives Concurring:

*That* in the future these considerations be acknowledged and that among other things all persons acting as school patrols or street crossing guards are urged to wear reflective clothing or have strips of reflective material affixed to, and prominently displayed upon, the clothing of such school patrol members and

street crossing guards while on duty before, during, and after school hours.

*That* the secretary of state is hereby authorized and directed to transmit an appropriate copy of this resolution to the state board of education and all local school boards in the state of New Hampshire.

Sen. GREEN: This is a Resolution which relates to the wearing of proper reflective clothing in the case of school children and in the case of people who are on patrol for school children who are leaving for school early in the morning as a result of Daylight Savings Time. We are well aware that this danger has pretty well passed at this point in time. However, the Resolution does make note of that danger and does request that local school districts, etc. do take precautionary action to protect the safety of the students who are leaving at that point in time.

Adopted.

(Senate President in Chair)

#### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: I want to thank you very, very much for the support you have given the trucking industry in passing, with a majority vote, the truck bill. I am sure there have been some errors made and, at the same time, in the short time some of these truckers did not have any experience at all so far as what to do in passing any of these bills, how they should be introduced because of their lack of not having any experience. But I can assure you that the truckers who have been here have been well educated and they know what to do now. I was happy to see the attendance of the truckers who were here.

But now I would like to make the record clear. As you know, I am a truck owner. But I want the record to show that I am not in that type of trucking. My business, and I have been in business for 39 years, has been hauling newspapers. I used to be in this business. I used to haul the heaviest loads on the highways of New Hampshire. I hauled as much as 65 tons on the highways and I traveled from the North to the South and the East and the West and every part of this State. Unfortunately,

in 1947, I got hit by a train and this is where I lost my equipment. But I want you to know that I also was in the pulp business — I used to truck that wood. I used to get up in the morning like these boys get up, sometimes at 3:30 in the morning and work until 11 o'clock at night. But I got smart and I got out of that business because I couldn't make a profit and I had a hard time to even pay my gas bill. And I had a hard time making payments on my trucks. And I know what these people have been going through and this was one of the reasons why I accepted the leadership in trying to help these boys out. At the same time, again, I want to thank each and every one of you for the support you have given the trucking industry today. Thank you.

Sen. GREEN: This is the first time I have chosen to speak under personal privilege. If I don't get this off my chest today before I go home, I probably will be upset about it for a long time.

I was amazed at the vote on the truck amendment today and I would like to explain why, which would somewhat explain my vote against that amendment. I have heard a lot of conversation about sizes of roads, bridges, how much money it will cost the consumer. I have heard all these things explained. I have heard them explained a number of times. But, in my own judgment, the most important thing is the safety of our citizens. The people who spoke on these admitted they were going to use existing trucks with axles and wheels they have and simply add weight to them. That bothers me. I am not against the trucking industry *per se*. But I am against any special interest group who uses the energy crisis or any other crisis to get their wishes. That bothers me. I am concerned that we, as a body, are pressured into a situation where we make a decision. If it were based on just the needs of the truckers, I could be sympathetic. But it is more than that. If you overload these trucks and they are out of control and one person in this state gets killed because you have done this — and I say you and I include myself in this; we as a body and I am not excluding myself — we will all be held accountable. I am upset about that. I think the safety of the citizens of New Hampshire comes before any special interest group and I will always say that and regardless of the amount of pressure placed on me to vote a certain way. That is the way I feel and I thank you for the opportunity to get that certain feeling out before the body.

Sen. TROWBRIDGE: I have never spoken under personal privilege and I want to reiterate what Senator Green has said. It disturbs me to vote against the trucking industry but that isn't the point. I am not against the trucking industry in the slightest. They are vital. I use them in my own business and have nothing against them. I am concerned about the safety factor and about the potential liability of this State with \$214 million worth of bridges and, if only 10% were damaged, you would have a \$21 million bill. I agree with Senator Green. I think he was right in getting up and saying it and I support him.

Sen. Foley moved that Senate do now adjourn from the Early Session, that the business in order at the Late Session be in order at the present time, bills be read by title only, resolutions by caption only and that when the Senate adjourn, it be until Tuesday at 1 o'clock, and that the Senate adjourn in honor of the return to the Senate of Senator Tom Claveau of Hudson.

Sen. FOLEY: Senator Claveau's Committee was ably chaired by Senator Poulsen during his absence. We are all very pleased to have Tommy back with us for the all-important remaining days of the Special Session.

Adopted.

### LATE SESSION

#### Third reading and final passage

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states; permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

HB 12, conforming tax commission references in the current use taxation law to the revised revenue administration laws.

HB 25, changing the reporting date for the study commission on the problem of unemployed citizens in New Hampshire.

SJR 3, establishing a committee to study highway safety and motor vehicles weight, length and width requirements.

Adopted.

Sen. Claveau moved the Senate adjourn at 4:40 p.m.

Adopted.

*Tuesday, 26Mar74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Eternal Father, we thank Thee for the wealth of memories endowed upon our State by Thy servant, Robert Frost, known throughout the world as *The* Poet Laureate of New England! Officials have gathered today to commemorate, through his works, his everlasting presence among us.

Enable us to gather in *our* lives, the qualities which were in his, and show them forth in our daily duties, for the betterment of mankind. Amen.

The Pledge of Allegiance was led by Senator Blaisdell.

#### ENROLLED BILLS

SB 19, specifying procedures for termination of residential gas or electric services.

HB 12, conforming tax commission references in the current use taxation law to the revised revenue administration laws.

HB 15, relative to redistricting the ward lines of the city of Laconia.

HB 16, permitting public accountants and registered professional nurses to form professional associations.

HB 25, changing the reporting date for the study commission on the problems of unemployed citizens in New Hampshire.

Senator Paul Provost  
For the Committee

Adopted.

#### COMMITTEE REPORTS

##### SB 31

authorizing the city of Berlin to acquire, develop and operate industrial parks within the city and to aid the construction and expansion of industrial facilities within the city by

issue of revenue bonds. Ought to pass with amendment. Senator Jacobson for Executive Departments, Municipal and County Governments.

### AMENDMENT

Amend the bill by striking out section 16 and inserting in place thereof the following:

16 Action by the Authority. All actions by the authority under this act may be authorized by resolutions of the board passed on the affirmative votes of at least two-thirds of the board members present and voting.

Sen. JACOBSON: SB 31 was introduced as a direct result of a court ruling that 162G with regard to the industrial development authority, was in fact, unconstitutional. For some reason or other, bond counsel had raised a number of questions in the last session of the Legislature but they were not carried forward. Therefore, when attempts were made by the City of Berlin, as one example, to operate under Chapter 162G, they found it was impossible. So, in order to correct this situation, especially in view of the fact that a company is now planning to locate in Berlin to help the employment situation and to develop an industry there, Senator Lamontagne introduced this legislation which is the same pattern as the Dover legislation is for their Industrial Development Authority. I do understand that there are a few problems with regard to the present legislation as it relates to Dover. However, it does not affect Berlin in the sense that Berlin already *owns* the land. It is a model that is consistent and apparently is acceptable to bonding counsel as it now stands.

You will recall that we thought about passing it on without Committee consideration. However, as you know, I opposed that and, at the hearing it was discovered that the legislation had an error in it with respect to the City of Berlin so that I felt somewhat substantiated with respect to that because, if it had passed without the amendment proposed by the Committee, a minority of the City Council could approve Industrial Authority bonding, which nobody in Berlin wanted either. The amendment makes it two-thirds of the City Council to approve the city bonding. That is the amendment.

After this amendment is adopted, if it is adopted and I hope it is, Senator Blaisdell has a further amendment which the Committee is in support of.

Sen. LAMONTAGNE: I would like to say I am very happy and pleased the Committee did have a hearing and, as far as for the error, it was not Legislative Services' fault; it was my fault because I had not changed the amount of councilmen. In the City of Dover it is 6 and Berlin has 12. Therefore, two-thirds of 6 certainly would have made it just a simple majority and that is not what we wanted because, in fact, you have to have a two-thirds majority in order to be able to get bonds. Therefore, the amendment, I am very much in favor of it because it makes it two-thirds of those elected and that is the way it should be.

Adopted.

Senator Blaisdell moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

##### An Act

authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each city by the issue of revenue bonds.

Amend the bill by striking out section 1 and inserting in place thereof the following:

1 Declaration of Need and Purpose. It is hereby declared that there is a need for the development of industrial facilities within the cities of Berlin and Keene in order to alleviate and prevent unemployment and under-employment in each such city and the region in which each such city is located, to insure the continued growth and prosperity of said cities and regions and to promote the general welfare of the citizens thereof and of the state. It is the purpose of this act to authorize the cities of Berlin and Keene and the Berlin and Keene Industrial Development Authorities to foster and encourage the development of industrial facilities by acquiring, developing and operating industrial parks within the respective cities, with or without the use of city funds, and by aiding the construction and expansion of industrial facilities within each city, without the use of city funds, through the issue of industrial develop-



ment revenue bonds. The two industrial assistance programs authorized for each city by this act are intended to be mutually independent, although such independence shall not preclude the financing of industrial facilities within an industrial park by the issue of revenue bonds; and all the powers herein conferred are intended to be in addition to and not dependent upon any powers conferred on said cities or authorities by any other law. It is further declared that the actions authorized by this act serve a public purpose and that in carrying out the provisions of this act each city and authority shall be regarded as performing essential governmental functions.

Amend the bill by striking out subparagraphs (c) and (d) of paragraph I of section 2 of the bill, and inserting in place thereof the following:

(c) "City" — in reference to the city of Berlin shall mean the city of Berlin and in reference to the city of Keene shall mean the city of Keene.

(d) "Council" — in reference to the city of Berlin shall mean the city council of the city of Berlin and in reference to the city of Keene shall mean the city council of the city of Keene.

Sen. BLAISDELL: I have talked with the sponsor of the bill, Senator Lamontagne, and he has been in contact with the City of Keene and I also contacted Senator Jacobson, Chairman of my Committee, to help me with this amendment. I want it clearly understood that I did talk with Senator Lamontagne as I don't want to go against anything for the City of Berlin. So, if you don't mind, I would like to defer to Senator Jacobson to explain it and I ask your support.

Sen. JACOBSON: What this in simple language does is it allows Keene to get on the train with Berlin to do the same thing with respect to their Industrial Authority. They are also stymied by the unconstitutionality of RSA 162G and the City of Keene, with its City Attorney, wants to move forward in the same way that Berlin wants to move forward so that the amendment simply includes Keene along with Berlin so that whatever is applicable to Berlin is applicable to Keene.

Sen. LAMONTAGNE: I have also met with Senator Blaisdell and, as he said, I have talked with the Attorney from Keene,

Mr. Morang, and he and I were working on 162G and that was the proposal that I mentioned to you that I was trying to straighten out for the City of Berlin. The City of Keene had the same problem and, in fact, had the same bonding counsel, so therefore both cities having the same bonding counsel, both cities had the same problem. Now, as I recommended to the City of Berlin to adopt the Dover act, this morning Keene wanted to have the same act as we are now proposing for Berlin and I told them I had no objections as long as it did not jeopardize the bill. Because, right now, as you know, we are getting to the closing hours and I would not want to take a chance on losing what we already have. And, at the same time, we wouldn't want to lose this new industry that we now have in the palm of our hands. This is important to us. Our unemployment is sky high and, therefore, this is going to help and we need all the help we can have. This is going to be some help and, if this bill is going to help Keene, then I am all for it too. At the same time, I would like to say I have also talked with Senator Johnson and he had said he was proposing an amendment. This has been withdrawn and, in fact, I even got his best wishes and I hope every one of you will support Berlin and Keene.

Sen. JOHNSON: The City of Dover is proud and happy to have made this language available to our sister cities of Keene and Berlin. So far as that amendment goes, I think Dover is planning to completely redo the bill another year but it is far too big to be done right now.

Adopted.      Ordered to Third Reading.

## HB 2

making appropriations for capital improvements. Ought to pass with amendment. Senator Trowbridge for Finance.

### AMENDMENT

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Appropriation. The sums hereinafter detailed in this section are hereby appropriated for the projects specified to the departments, agencies and branches named:

I. Adjutant General  
Concrete floor — Manchester  
Armory

\$50,00

## II. Administration and Control

(a) Restore and refurbish legislative chambers and 3rd floor of state house	\$160,000*
(b) Refurbish exterior of state house	80,000
(c) Renovate first floor toilets	30,000
(d) Clean and point exterior — library	50,000
(e) Renovations to Purchase and Property Warehouse	68,000

Total Paragraph II \$388,000

\*The projects for which this appropriation is made shall, notwithstanding any statutes to the contrary, be under the complete and sole control of the Speaker of the House and President of the Senate jointly, and in the expenditure of said funds the provisions of RSA 8 and RSA 228 shall not apply.

## III. Aeronautics Commission

(a) Nashua — Land for ILS	\$240,000*
Less Federal	180,000

Net Appropriation \$60,000

\*Land to be acquired by the city of Nashua under RSA 423 and to be reimbursed from these funds.

(b) Lebanon — Taxiway	\$112,000
Less Federal	84,000

Net Appropriation 28,000

Total Paragraph III 88,000

## IV. Education — New Hampshire Vocational-Technical Colleges

(a) Nashua	
Automotive building:	
Engineering	\$45,300
Construction	697,500
Furnishings	106,400
Contingencies	30,000

Total Subparagraph (a) \$879,200

## (b) Claremont

## Allied health science building:

Site	\$35,000
Engineering	75,000
Construction	1,100,000
Utilities	12,000
Furnishings	175,000
Contingencies	57,000

Total Subparagraph (b) 1,454,000

(c) Laconia		
New equipment — graphic arts presses and related items		78,000
(d) Berlin		
Automotive shop addition	\$143,000	
Baking kitchen and cafeteria expansion:		
Engineering and working drawings	10,000	
Total Subparagraph (d)		153,000
(e) Manchester		
Library extension		225,000
Total Paragraph IV		2,789,200
V. Health & Welfare		
(a) Office building — phase II — Design, engineering, and working drawings to be ready for 1975 Legislative Session		\$655,000
(b) N.H. Home for the Elderly (Glencliff) — Laundry		83,600
(c) N.H. Hospital		
(1) Reline fuel oil tanks	\$18,000	
(2) Equipment for main building kitchen	25,000	
(3) Plumbing, renovation, etc. in south side main building	69,000	
(4) Plumbing, renovation, etc. in north side main building	86,000	
(5) Dolloff building — renovate to life safety code, etc.	850,500	
(6) Reconstruction and renovation of Tobey, Thayer, Brown, and Walker buildings —		
A. Design and engineering all four buildings	300,000	
B. Reconstruction and renovation of Tobey building complete:		
Construction	823,400	
Contingencies	100,000	
Equipment	40,000	
Total Subparagraph (c)		1,541,900
(d) Laconia State School and Training Center		
(1) Laundry equipment	\$55,000	

(2) Dairy barn conversion (own forces)	30,000	
(3) Renovate electrical entrance and outside wiring phase I	132,000	
	<hr/>	
Total Subparagraph (d)		217,000*

\*Authority is hereby granted to sell, dispose or remove, at no cost, the silo at the Laconia State School and Training Center. Any revenue derived from its sale or removal shall be deposited in the general funds of the state.

Total Paragraph V	2,497,500
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#### VI. New Hampshire Youth Development

Center — acquisition of one youth residential center located off the present property but within the Manchester area.	\$125,000*
Spaulding Cottage renovation	55,000
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\*This appropriation shall be reduced by any available federal funds.

Total Paragraph VI	180,000
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#### VII. Liquor Commission

Addition to Portsmouth store No. 38	345,000
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#### VIII. Department of Resources and Economic Development

(a) Removal and/or relocation and/  
or reconstruction of miscellan-  
eous department buildings in-  
cluding the following:

State Forest Nursery —

Gerrish; Laconia State School

— Laconia; Odiorne Point

State Park — Rye; Ragged Neck

State Park — Rye; Coleman

State Park — Stewartstown	\$75,000
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Less federal funds	10,000
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Net state appropriation

Subparagraph (a)	\$65,000
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(b) Division of Resources

Land acquisitions	\$75,000
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Less federal funds	37,500
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Net	\$37,500
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Administrative costs necessary to acquire land	5,000
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Net state appropriation

Subparagraph (b)	\$42,500
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(c) Division of Parks	
(1) Land Acquisition —	
Recreation trails, easements, rights-of-way	\$40,000
Title work, surveys, pro-rata taxes (No Federal Match)	10,000
(2) Engineering and construction	
A. Bear Brook — new water supply	49,000
B. Franconia — phase II snow-making, novice slope development	95,000
C. Greenfield — construct shower building and expand parking and picnic area	56,000
D. Oidorne Point — planning and design, and site improvement	15,000
E. Pawtuckaway — sewage dumping station, new toilet building	40,000
F. Fort Constitution — reconstruction, and renovation	50,000
G. Robert Frost Homestead — renovation, reconstruction and apartment facility for caretaker	30,000
Total Subparagraph (c)	\$385,000
Less federal funds	147,500
Net state appropriation	
Subparagraph (c)	237,500
(d) Capital Construction Projects — 5 Year Bonds	
Franconia Notch state park — installation of new tramway cables; then repair electrical and mechanical drive	\$180,000
Total Paragraph VIII	525,000
IX. Department of Safety	
(a) Office building	
Plans and engineering only including parking layout and drawings at Clinton street location near interstate route 89	\$250,000

(b) Safety services		
Rebuild Winnepesaukee boat		
house and dock facility	35,000	
(c) State police		
Renovate radio station		
and building	8,000	
	<hr/>	
Total Paragraph IX		293,000
X. Veteran's Home		
Nursing care unit	\$2,337,500	
Less federal funds	1,519,375	
	<hr/>	
Net state appropriation Paragraph X		818,125
XI. State Prison		
Improvements and repairs as		
follows: replacing windows		
(main cell block), renovate		
heating (main cell block), new		
roofs on hospital and old boiler		
room, No. 1 boiler conversion burn-		
er, toilets for annex, renovate		
annex, maximum security cells in		
old hospital area		275,900
XII. Water Resources Board — Repairs,		
reconstruction and rebuilding		
of dams.		
(a) Union Meadows	\$43,320	
(b) Kingswood Lake	53,420	
(c) Glen Lake	151,620	
(d) Howe Reservoir	29,640	
(e) Winnisquam Lake	114,000	
	<hr/>	
Total Paragraph XII		392,000
XIII. Water Supply and Pollution		
Control Commission		
Regional waste treatment plant		
Winnepesaukee River Basin	\$20,086,000	
Less federal funds	15,064,500	
Less local funds	1,004,300	
	<hr/>	
Net state appropriation Paragraph XIII		4,017,200
XIV. Public Works and Highways,		
Division of		
Contractual maintenance projects:		
5 year bonds		
New Hampshire Hospital		
Concord, N. H.		
(a) Overhauling elevators	\$40,000	

(b) Reinsulate warehouse freezer	12,000	
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Total Paragraph XIV		52,000
		<hr/>
Total state appropriation Section 1		\$12,710,925
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2 Appropriation, University of New Hampshire. The sums hereinafter detailed in this section are hereby appropriated for the projects specified; including but not limited to the purchasing, constructing, furnishing and equipping thereof, to the trustees of the University of New Hampshire system:

I. Merrimack Valley Branch		
(a) Development of outside utilities	\$3,750,000	
(b) Construction of first building	1,668,000	
(c) Design and working drawings of second building	175,000	
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Total Paragraph I		\$5,593,000**
II. Keene Campus		
Renovation of former Elliot Hospital		700,000*
III. Plymouth Campus		
New academic building complete		4,000,000**
IV. Durham Campus		
Complete renovation of James, Morrill, Murkland, and Kingsbury Halls to conform with N.H. Life Safety Code		486,000**
V. All Campuses		
Phase I of installation of fire detection systems in various buildings to comply with N. H. Life Safety Code		82,000**
VI. Snively Arena — Fire doors, safety lights and devices to meet Life Safety Code		
		18,000**
Total state appropriation Section 2		\$10,879,000
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\*These funds shall not be transferred or used for any other purposes and is the total amount to be appropriated and/or expended for all renovation or conversion of the Elliott property to university use, and the following priorities in spending will apply: (1) repairs to roofs.

\*\*These funds shall not be transferred or used for any other purposes.



3 Appropriations; Self-Liquidating. The sum of two million one hundred eighty-three thousand dollars is hereby appropriated for the purpose of constructing, furnishing, and equipping housing and dining facilities and utilities at the University of New Hampshire as follows:

Durham Dormitory	
Construction	\$2,040,000**
Furnishing and equipment	143,000*

Total Section 3	\$2,183,000
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\* 5 year bonds.

\*\*30 year bonds.

4 Expenditures, General. The appropriation made for the purposes mentioned in sections 1, 13 and 29, and the sums available for those projects, shall be expended by the trustees, commission, commissioner, or department head of the institutions and departments referred to herein, provided that all contracts for projects and plans and specifications therefor, shall be awarded in accordance with the provisions of RSA 228.

#### 5 Expenditures, University of New Hampshire.

I. The appropriations made for the purposes mentioned in sections 2 and 3 and the sums available for these projects shall be expended by the trustees of the University of New Hampshire. All contracts for the construction of all or any part of said building or facilities shall be let only after competitive sealed bids have been received and only after an advertisement calling for such bids has been published at least once in each of two successive calendar weeks in a newspaper of general circulation in New Hampshire or in a trade journal known to be circulated among the contractors from whom bids will be sought with the state of New Hampshire or elsewhere in the area. The first publication of such advertisement shall be not less than thirty days prior to the date the bids will be received. All conditions considered, wherever possible, it is recommended that the services of New Hampshire architectural and construction firms be considered within the discretion of the trustees.

II. Availability of Appropriation. The appropriations made in sections 2 and 3 are available for all costs incidental

to the erection, furnishing, and equipping of these facilities including the necessary extension of utilities and includes the cost of the services of architects, engineers, and other consultants of such kind and capacity as the university board of trustees may, in its discretion, wish to employ on such terms and conditions as the board determines, and include the cost of furnishing and equipping the facilities with moveable equipment and furnishings not affixed to the buildings, and which are not listed in the specifications approved for implementation of the construction plans. These monies shall be spent under the direction of the university board of trustees.

III. Rejection of Low Bids. If, in the judgment of the trustees of the university, just cause exists indicating the lowest bid should be rejected, then the contract may be awarded to the next lowest bidder, or if the next lowest bid should be rejected, the contract may be awarded to the third lowest bidder.

IV. Rejection of All Bids. The board of trustees of the university has the right to reject any and all bids and, if the lowest bid is in excess of the appropriation, the board has the right to negotiate with the low bidder or with the three lowest bidders for a contract for the construction upon terms considered most advantageous to the university. If only one bid is received, the board of trustees may negotiate a contract for the construction on terms considered most advantageous to the university and to the state. Any authorization contained in this act which is at variance with the requirements of applicable federal law and regulations shall be controlled by the terms of the federal law and regulations.

6 Land Acquisition. Any land acquired under the appropriations made in sections 1 and 13, except such land, if any, as may be acquired under the appropriation for water resources board, shall be purchased by the commissioner of public works and highways, with the approval of governor and council.

7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, 3 and 29 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of twenty-five million, eight hundred sixty-seven thousand, nine hundred twenty-five dollars and for said purpose may issue bonds and

notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for the purposes of section 1, subparagraph VIII (d), paragraph XIV and section 3 (furnishings and equipment \$143,000) of this act, shall have a maturity date of five years from date of issue, and provided further that the bonds issued for the purposes of section 3 (construction \$2,040,000) of this act shall have a maturity date of thirty years from the date issue.

8 Payments. The payment of principal and interest on bonds and notes issued for the projects in sections 1, 2, 3, 13 and 29 shall be made when due from the general funds of the state.

9 Liquidation. The state treasurer is authorized to deduct from the fund accruing to the university under RSA 187:24, or appropriation in lieu thereof, for each fiscal year such sums as may be necessary to meet interest and principal payments in accordance with the terms and conditions of the bonds or notes issued for the purposes of section 2 and 3 hereof.

10 Powers of Governor and Council. The governor and council are hereby authorized and empowered:

I. To cooperate with and enter into such agreements with the federal government or any agency thereof, as they may deem advisable, to secure federal funds for the purposes hereof.

II. To accept any federal funds which are, or become available for any project under sections 1, 13 and 29 beyond the estimated amounts. The net appropriation of state funds for any project for which such additional federal funds are accepted shall be reduced by the amount of such additional funds and the amount of bonding authorized by sections 7 or 14, whichever is applicable, shall be reduced by the same amount.

11 Transfers. The individual project appropriations, as provided in sections 1, 2, 3, 13 and 29 shall not be transferred or expended for any other purposes; provided that if there is a balance remaining after an individual project, which is fully funded by state funds, is completed, said balance or any part thereof may be transferred by governor and council to any other individual project or projects, which are also fully funded by state funds, within the same section.

12 Reduction of Appropriations and Bonding Authority. If the net appropriation of state funds for any project provided for by sections 1, 2, 3, 13 and 29 is determined on the basis of an estimate of anticipated federal, local or other funds, and if the amount of such funds actually received or available is less than said estimate, then the total authorized cost for such project and the net appropriation of state funds therefor each shall be reduced by the same proportion as the proportion by which federal, local or other funds are reduced. The amount of bonding authorized by sections 7 or 14, whichever is applicable, shall be reduced by the amount that the appropriation of state funds is reduced pursuant to this section.

13 Water Resources Board Appropriation. The sums hereinafter detailed in this section are hereby appropriated for the projects specified, for capital improvements and long-term repairs thereto, to the water resources board:

I. Baker River Watershed Project	
Sites 6-A, 7, and 11-A	\$2,850,350
Less federal funds	2,158,575
Less other funds	81,000
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Net state appropriation paragraph I	\$610,775
II. Cold River Watershed Project	
Site 6 (jointly with state of Me.)	\$345,700
Less other funds	34,000
Less federal funds	296,000
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Net state appropriation paragraph II	\$15,700
III. Souhegan River Watershed	
Site No. 33	\$2,500
Site No. 8	40,000
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Total paragraph III	\$42,500
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Total state appropriation section 13	\$668,975

14 Bonds Authorized. To provide funds for the total of the appropriations made of state funds in section 13 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of six hundred sixty-eight thousand nine hundred seventy-five dollars and for said

purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

15 Appropriation Extension. The appropriation made to the water resources board by 1971, 559:1, X, for the specified capital expenditures shall be available for expenditure until July 1, 1977.

16 Certain Parks Appropriations of 1971 Extended. The following appropriations to the division of parks, for the specified capital improvements, shall be available for expenditure until July 1, 1977:

I. 1971, 559:1, VII, (1), (a), (i), Franconia Notch State Park, tramway cables.

II. 1971, 559:1, VII, (1), (b), Berlin wayside and recreation area.

III. 1971, 559:1, VII, (1), (g), dredging and improvements of Hampton Harbor.

17 Appropriation for Hooksett Liquor Store Extended. Amend 1972, 42 by inserting after section 4 the following new section:

42:4-a Appropriation Extended. Notwithstanding any other statute to the contrary the appropriation made by this act shall be available for expenditure up to July 1, 1977.

18 Aeronautics Commission. Amend the footnote in Laws of 1969, 505:1, III, as amended by Laws of 1972, 62:3, by adding to the footnote the following new paragraph (The provisions within this footnote which appear prior to this insertion shall not apply to paragraphs III, (b) and (d), but said appropriations shall be matched with any applicable federal funds and shall, notwithstanding the provisions of RSA 9:18, not lapse until June 30, 1977.)

19 Angle Pond Appropriation Increased. Amend Laws of 1969, 489:3, by striking out said section and inserting in place thereof the following:

489:3 Expenditure Authorized. The water resources board is hereby authorized to expend a sum of money not to exceed thirty thousand dollars for use in acquiring, repairing and

maintaining the dam on North River Pond in the town of Nottingham and the dam at the outlet of Angle Pond in the town of Sandown which shall be a charge against the fund established in RSA 270:5, VII.

20 Pisgah Road Appropriation Reduced and Extended. Amend Laws of 1971, 559:1, VII, (1), (e), by striking out the same and inserting in place thereof the following:

(e) Pisgah Road Improvement	\$102,500
Less federal funds	40,000
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Total	\$62,500*

\*Within this appropriation the sum of \$22,500 provides for nonfederal BOR participation projects. This appropriation shall not lapse until June 30, 1977.

21 Reducing the Appropriation for the Soldiers' Home. Amend Laws of 1971, 559:1, VIII, by striking out said paragraph and inserting in place thereof the following:

#### VIII. Soldiers' Home

Engineering Services — renovations	2,000
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22 Reducing the 1971 Capital Budget Bonding. Amend Laws of 1971, 559:8, as amended, by striking out said section and inserting in place thereof the following:

559:8 Bonds Authorized. To provide funds for the appropriations made in sections 1, 2, 3 and 16 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of eleven million four hundred one thousand one hundred sixty-five dollars and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A; provided, however, that the bonds issued for the purposes of section 3 of this act shall have a maturity date of thirty years from the date of issue.

23 Legislative Facilities Committee. Amend 1973, 368:1 by striking out said section and inserting in place thereof the following:

368:1 Committee Established. A joint committee on legislative facilities is hereby established for the purposes of con-

ducting, supervising and coordinating the renovating, rebuilding, remodeling or construction of the state-owned building known as the Old Post Office located in Concord, New Hampshire, in its sole discretion as it deems necessary, for hearing rooms, meeting rooms and other facilities for the use and control of the legislature and their supporting activities. Such committee shall also conduct, supervise and coordinate the planning and construction of a legislative parking facility to be located in Concord, New Hampshire for the use and control of the legislature and their supporting activities. The committee shall consist of the president of the senate and the speaker of the house, or their designees, the majority and minority leaders of each body and one member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house who shall be members from the office space study committee; and an additional member of the senate appointed by the president and an additional member of the house appointed by the speaker. The committee shall meet as required and shall serve without compensation; however, the committee members shall receive legislative mileage.

24 Legislative Parking Facility. Amend 1973, 368:2 by inserting after paragraph IX the following new paragraphs:

X. The committee shall have the authority to negotiate and contract with the city of Concord for the acquisition of land or air rights for the purpose of constructing a facility for the use of the legislature, and such land or air rights may be acquired without the consent of the governor and council.

XI. Notwithstanding any other provisions of law to the contrary, all space in and utilization of the legislative parking facility shall be determined by the president of the senate and the speaker of the house.

XII. The division of buildings and grounds within the department of administration and control shall be responsible for the maintenance of said parking facility. The superintendent of state buildings and grounds in consultation with the comptroller and approval of the legislative facilities commission as established by 1973, 368:1, as amended, shall set reasonable user fees. Said user fees collected shall be deposited with the state treasurer as restricted revenue to be used by the

division of buildings and grounds to offset the cost of maintenance.

25 Appropriation. Amend 1973, 368 by inserting after section 6 the following new sections:

368:6-a Appropriation. The sum of seven hundred seventy thousand dollars is hereby appropriated for the planning and construction of a legislative parking facility. Said sums shall be expended by the legislative facilities committee. The committee is authorized to apply for, accept and expend federal and private funds that may be made available for the purposes of this act and the amount of state funds available for said purposes shall be reduced by the amount thereof.

368:6-b Bonds Authorized. To provide funds for the appropriation made in section 6-a of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of seven hundred seventy thousand dollars, and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

26 Powers of University Trustees. Amend RSA 187:8, as amended, by inserting after paragraph IX the following new paragraph:

X. To maintain and operate all housing facilities, dining halls or other food service facilities, student unions, and bookstores for students and faculty on all campuses of the university system which are in existence on the effective date of this paragraph or which may later be constructed and to collect rents from any such housing facilities.

27 Special Funds Established. Amend RSA 187 by inserting after section 10 the following new section:

187:10-a Special Funds for Self-amortizing Projects. The trustees of the university shall keep the income from all: housing facilities, dining halls and other food service facilities, student unions, and bookstores each in a separate fund for each division or campus of the university system. From each such fund shall be paid the proportionate part of the annual interest on the state borrowing for the purpose of constructing any of the four above-mentioned particular facilities at the particular division of campus, and a like proportionate pay-



ment of installments of principal as the same become due until such time as all obligations incurred by the state for any of said four facilities at any division or campus have been met. All operating and maintenance expenses of the four above-mentioned facilities shall be paid from the applicable separate fund hereby established.

28 Repeal. The following statutes are hereby repealed:

I. RSA 187:10, relative to dormitory rentals;

II. Laws of 1967, 394:11-a, establishing special funds for certain university buildings;

III. Any statute inconsistent with the provisions of RSA 187:8, X or RSA 187:10-a.

29 Mount Sunapee Snow-making Feasibility Study. The sum of fifteen thousand dollars is hereby appropriated to the department of resources and economic development, division of parks to hire a competent engineering firm to make the necessary feasibility study, both economic and engineering, for the installation of snow-making equipment on all parts of Mt. Sunapee. Said study shall be submitted to the fiscal committee of the general court which shall consult with the public works committees of both the house and senate. If the fiscal committee of the general court finds that the installation of snow-making equipment at Mt. Sunapee is feasible, then there is appropriated to the department of resources and economic development, division of parks the sum of eighty thousand dollars to obtain detailed engineering plans for said installation.

30 Electronic Roll Call Committee. Amend 1973, 592 by striking out the first paragraph and inserting in place thereof the following:

That a special legislative committee is hereby established to work with the public works division of the department of public works and highways to consider the various proposals submitted to such division and to decide which system best satisfies the requirements of the legislature. Membership of the committee shall consist of the speaker of the house, the majority and minority leaders of the house, the chairman of the house public works committee and the chairman of the house appropriations committee. Each member may appoint designees, not exceeding two in number, to serve in his place. The commit-

tee shall have the following powers and duties: (1) to choose the system within the appropriation allocated and provide for installation and approval before January 1, 1975; (2) to request for an indefinite period the temporary assignment of any classified or unclassified employee of the state to assist the committee in its work, and such employee shall be assigned to such temporary duty and be under the direction and supervision of the committee, but shall continue to be paid by the department of which he is an employee. In carrying out its duties hereunder, the committee is exempted from the provisions of RSA 228 and RSA 8; provided, however, that if it so requests, the department of public works and highways and the director of the division of purchase and property shall provide the services of their departments and follow the procedures provided for in RSA 228 and RSA 8, except that in no case shall the approval of governor and council be required, but instead the approval of the committee shall be sufficient.

**31 Effective Date.** This act shall take effect upon its passage.

Sen. TROWBRIDGE: This is the Capital Budget. I think the simplest way is to go through the bill, page by page, so that you will see what changes we have made and then I will give a summary of what it all adds up to.

On the first page, the only change is in the footnote that had to do with the refurbishing of legislative chambers. The House version had it that none of these funds could be used for the Senate Chamber. We thought that was a little bit indelicate and that, if it ran to \$41,000.00 to do the Senate Chamber, we should be entitled to participate in the \$160,000.00 in this bill and, therefore, we took out the little footnote.

In Nashua, on the Aeronautics Commission—\$240,000.00—the asterisk is added “land to be acquired by the City of Nashua under RSA 423,” and then Nashua to be reimbursed for these funds. There has been some question that the City of Nashua has had no participation in the hearings on the ILS runway; they have the machinery to take it by eminent domain; there is some question as to the value of land and, of course, all bond issues, as you remember, are only authorizations to spend. They are not necessarily the amount to be spent. They are the upper limit. So that, if the City of Nashua can acquire these lands and

the air rights which are involved for less than \$240,000.00, that would be so much the better. So this seemed to be the best way to handle the situation and the Senators from Nashua seemed to agree so we have taken care of that issue.

In Section 4—Education—the vocational-technical colleges. There have been some machinations in the press as to whether the Nashua and Claremont Vocational-Technical Colleges are in the bill. I don't think that Governor Thomson has kept abreast of what is going on because he made a speech on Saturday saying it is too bad that these two technical colleges have not been taken care of when, in fact, on Thursday night, almost anybody in the know around the State House knew they had been taken care of. I cannot apologize in the least for his lack of information. All I can say is that we definitely decided to go along with the entire appropriation for both colleges. The House had only put in the engineering fund. The House was not at all disturbed by this. They were holding down the appropriations in fear of a gubernatorial veto. It is interesting that Charles Douglas of the Governor's office came in and supported the full amount for both Nashua and Claremont, so certainly we have satisfied the one real input that we got from the Governor's office in this fashion. Claremont, as you know, is the health science building and I think these have been waiting a long time and it is time to support our vocational-technical colleges and we are doing so.

In Laconia, only a slight change but it shows you the method by which we do things in Senate Finance. The original said the \$78,000.00 of appropriations for 5 graphic arts presses and related items. Anyone around knows you can't buy 5 graphic presses for \$78,000.00. So, I think there was an attempt there to say—well, we will put in 5 and if we can't get all 5, we will come back next time for another appropriation. What we have done is say: no, you are going to get \$78,000.00 and you can buy as many presses as \$78,000.00 will get you. That is the change in the description of the item, which I think is important.

Coming to Berlin—the automotive shop addition, we put in. We had a very hard and difficult time with the bakery, kitchen and cafeteria addition because that was asked for at \$300,000.00. In my judgment and the judgment of the Committee and the House members who came and sat in with us, there is no way you could justify \$300,000.00 for the bakery addi-

tion and the cafeteria. It was just much too expensive. I have told Senator Lamontagne—and I have talked with Arthur Drake—that in Conference Committee we would be happy to put another \$150,000.00 in this item so that the total appropriation for Berlin would be about \$300,000.00 and they will do the bakery addition and the cafeteria expansion with the extra \$150,000.00, which is a much more reasonable level. But we didn't have that in front of us and because time was short Thursday afternoon we could not justify the \$300,000.00 figure so we left it out, putting in the \$10,000.00 for the planning money. I think we have an understanding as to how we will handle the Berlin item, which is perfectly acceptable to the Committee, so long as the figure is right.

There are no other changes until item VIII, the Department of Resources and Economic Development. In the first section, the only change is that we spell out which particular building we are talking about for the relocation, removal and reconstruction. Before it was just a lump sum appropriation. So the \$75,000.00 less the \$10,000.00 of federal funds is now fairly well spelled out as to where it will be used rather than any change in the figure. In item (b) Division of Resources, we have put in a general appropriation for land acquisition, less federal funds, of \$37,500.00 for a net of \$37,500.00. It was asked for a good deal higher appropriation and item by item, for instance picking up this piece of land and that piece of land. In our discussions with the University of New Hampshire and other organizations, we found it more desirable to put in a smaller figure for land acquisition but to have them be able to use it wherever—let's say a parcel comes up next to a state park or in holding within a state park, surrounded by a state park that they can, if the opportunity arises, buy it at a good price at the right time rather than trying to tie their hands and saying where you are going to actually use this money because, by specifying the money for a certain tract of land, it tends to make the landowner know that there is an allocation so that takes your bargaining position away. So, I think this is a better way to handle it. It gives enough money to the State to pick up some of the parcels of land that come up periodically and are desirable to fill out the park system. That comes to a net of \$42,500.00.

Under Land Acquisition—recreation trails, easements and

rights-of-way—we are continuously, I mean the Federal Government is continuously working on the Appalachian Trail to get, I think it is 100 yard right-of-way throughout the entire state and this is a continuing appropriation to buy easements and the right to cross land \$40,000.00 here in order to fill in the chinks in the Appalachian Trail. The title work—there is no federal match—is sometimes the most difficult part of the whole job.

In Section 2—engineering and construction—we have added two items. Item F—Fort Constitution. With the Bicentennial coming, Fort Constitution is one of the main attractions on the seacoast for the Bicentennial celebration. We have improved the property already, but the actual reconstruction, outside reconstruction and renovations to get ready for the Bicentennial in 1976 has not been done and \$50,000.00 was put in by Senate Finance for that purpose. Item G—Robert Frost Homestead, we were asked for \$100,000.00 to renovate the Robert Frost Homestead. The problem with it is that the previous owner had changed it considerably since Robert Frost lived there in 1903 so that it is a little interesting that the property was purchased for \$1,500.00 in 1903 and here we are with \$30,000.00 to renovate it. A large portion of that is to build an apartment in the barn for the now unpaid caretaker who happens to be a poet who is in residence. That is a very important part of it. The other part is to take out a toilet and other things that have been placed in the wrong place in the building so that it can be ready for wallpapering and furnishing which private industry is going to do—people who are interested in the Homestead are going to do that work themselves. So, we thought that \$30,000.00 would be adequate to do this next phase and we seem to have agreement.

Passing on to (d)—the bonding—Franconia Notch State Park for installation of new tramway cables and repair of electrical and mechanical drive. We already have the cables. We bought them in the last Capital Budget. They are not yet installed. The way the bill came to us it did not read this way but what we have directed by this language is to install and repair the cables first, then repair the electrical and mechanical drive, because, although the mechanical drive is old, it is not dangerous. It is the cables that are our first concern because they have gone some 18 years I think it is. By changing the language, we have directed the Department of Resources how to handle the money.

IX. Department of Safety. The plans and engineering for the new layout and the new Department of Safety Building. We raised a new issue here and it is subject to debate, certainly. If you go out Clinton Street toward Route 89, you can see a good deal—about 1,000 acres—of State owned land out there. A lot of it is low land, unfortunately, but you know the farms out in that area. There is a new projected cloverleaf on 89 coming right at Clinton Street whereby the public can get off coming west, whereas now it can't get off coming west. Once that happens, the Senate Finance feels that would be a highly desirable location for the Department of Safety to get the congestion away from Loudon Road. It is public oriented for people coming from all over the State and that would be a good location. So, we have specified that when they do their planning \$250,000.00 that they do it with the idea that the Clinton Street location near 89 is the location where they are going to do it. You may remember when we did the Health & Welfare Building, we specified that it be on the Heights and I think it is important in these capital budgets to specify the location. Otherwise, they can do plans on 4 or 5 locations and they can waste a lot of time and money. It may be that this specified location may not survive all the discussions, but we bring it up so that you can be *thinking* about it and, if there are adverse comments, we are not worried about that. It is just that someone has to think—where would the Safety Building go if it were going to be built. I think this is the time to raise that issue and this is our best judgment.

Under (b)—safety services, we had to add another \$10,000.00 for the dock facility at Winnepesaukee. The other allocation of \$25,000.00 was too short and \$35,000.00 is the new number.

The Veterans Home—we have added a certain amount of funding up to \$818,000.00 of State funds. The House Appropriations Committee had cut the funds from \$2,337,500.00 for the total budget down to \$2,134,720. It just seemed like it was the height of folly for that relatively small amount of money so Ken Tarr came in and said, I just don't think I can do it for that, they will come in for a supplemental appropriation. So we just thought it was better to go with the original figure and, if they can come in for less, they always can. So that is a minor change there.

Then going on the only other change has to do with Keene State College renovation of the Elliot Hospital. We have had

some back and forth on this and the House Appropriations Committee wanted to make a strict priority as to how the funds were expended. Senator Blaisdell and I both agreed that there was no problem in saying that they should first repair the roofs so that priority is left in, but the other priorities have been taken out because, frankly, most of the \$700,000.00 could have been used up satisfying the Life Safety Code which is, as many of you know if you follow the Life Safety Code to its extreme, a sign painter's paradise—all the doors have to be switched and every staircase has to be switched and you would spend an inordinate amount of money doing that. So, that is how we have handled that situation and I think that will prevail from what I have heard.

Then there are a couple of really minor amendments which were never noticed. We have been extending a good deal of the old Capital Budget appropriations because the other Capital Budget was vetoed and the extensions from the '71 Capital Budget would have been extended in the '73 Capital Budget but, of course, there was no budget so that we had to put in these certain parts—extensions. The House version said they shall be available for expenditure until July 1, 1976. We have moved that to July 1, 1977 because it makes no point to extend them and then have to extend them 9 months from now in the next Capital Budget. So this will carry them through another Capital Budget and makes more sense.

There is a very slight change, but just so you will know what we did—in Section 23 in the next to the last sentence you will notice that the Committee on Legislative Facilities is being reinstituted. All we have done here is that down in the last sentence—"The Committee shall consist of the president of the senate and the speaker of the house" and now we say "or their designees." We found that the attendance of the President of the Senate and the Speaker of the House on this Committee has been somewhat less than complete, through no fault of their own being busy, and so we wanted them to at least be able to appoint a designate to keep going on that provision.

Section 24, you will see this item of the legislative parking facilities. This is an attempt by the Legislature to solve the perennial parking problems of the Legislature. The Committee has the authority to negotiate with Concord, they have a site for land and air rights for purposes of constructing parking facilities. One

of the things we added in this section was to make it clear that the Division of Buildings and Grounds in the Department of Administration and Control shall be responsible for the maintenance of the building, that they can set up reasonable rentals when it is used for persons other than legislators and user fees shall be deposited in a special fund to be used for the maintenance of the facility.

Then we come to section 29, the Mt. Sunapee Snow-Making Feasibility Study. We have heard a great deal of testimony on Mt. Sunapee and an impassioned plea by Senators Jacobson and Spanos, in favor of \$1,250,000.00 for immediate construction of the entire snow-making facility on Mt. Sunapee. Despite the rhetoric that we heard from Senators Jacobson and Spanos, it did come out in the hearing pretty clearly, to most of us, that really there is a technical problem of pumping water 3 miles up Mt. Sunapee and that the manager of the Park made it clear that, even if he had had snow-making machinery this year, he probably would have gained only some 12 to 15 days of skiing. I think it has been acknowledged there is no way to make this pay for itself, if it has to amortize both the bonds and the operational cost. But we recognize also that to be competitive Mt. Sunapee may need snow-making machinery. Hence, what we have done is allocated the sum of \$15,000.00 to DRED to hire a competent engineering firm to make the necessary feasibility study, both economic and engineering, for the installation of snow-making equipment. That should not be too hard to do—to say is it going to cost \$2 million; is it going to cost \$1 million; is it going to cost \$5 million; is it feasible at all? “Said study shall be submitted to the Fiscal Committee of the General Court which shall consult with the Public Works Committees of both the House and Senate.” If the Fiscal Committee of the General Court finds that the installation of snow-making equipment at Mt. Sunapee is feasible, then there is appropriated to the Department of Resources and Economic Development, Division of Parks, the sum of \$80,000.00 to obtain detailed engineering plans for said installation. No way would there be any way that this facility would be up by this winter anyhow even if we allocated the whole \$1,250,000.00 right now. Testimony is clear you can’t get the material, the piping, pump, so that we are not delaying this project in any way, but we are taking, I think, the prudent course to make sure that it works out, that it is feasible to do the job before inflating the Capital Budget by \$1,250,000.00. So, al-



though I understand I may not have unanimous consent on this particular item today, I urge your support of the Committee on that amendment.

The last one—the electronic roll call committee. This was just a House amendment—Section 30—to give them the membership—it has nothing to do with the Senate and has nothing to do with any expenditure. It is just a Committee to work on the problem of a roll call in there because they may want to get more out of it and they need some help from the Public Works Commission and this enables them to hire in the Public Works Commission to help them and consult with them on the bids and the engineering of the electronic roll call for the House.

In summary, the Senate Finance Committee version of this bill as to regular general fund bonds for the State would come to \$25,123,900.00. That compares with the House version of \$22,589,727.00. The bulk of that, of course, is in the two vocational-technical colleges—the real bulk of the additional expenditures. The self-liquidating bonds are the same in both versions—\$2,183,000.00 which is for the dormitory at UNH. Then there is the Winnepesaukee Basin thing in there at \$20,000.00 of federal funds so that there is a high federal fund of \$19,497,450.00 which is almost all Winnepesaukee Basin water pollution bonds which really doesn't affect our budget at all. That is where we stand and I will answer any questions. I think it is not a very big change. As I repeat, the major changes come in the vocational-technical colleges.

Sen. LAMONTAGNE: The footnote on the motor vehicle survey to have this come in for the 1975 Session—Motor Vehicle Building?

Sen. TROWBRIDGE: No.

Sen. LAMONTAGNE: There is no time specified as to when they make the report?

Sen. TROWBRIDGE: No, but now that you mention it, we did note that the Public Works Department is to bring back all these plans and surveys by the next session. That is their mandate, so that we don't necessarily have to put it in.

Sen. LAMONTAGNE: I have met with the Chairman of the Finance Committee and also the Chairman of the House Appropriations Committee and the remarks which have been made by the Chairman here today are very satisfactory to me.

There is one thing I do want to say to the Senate Finance Committee. I think the Finance Committee were right in questioning the amount that was requested for the bakery and the cafeteria extension because an amount of \$300,000.00 was most ridiculous. Last Thursday I tried to make it my business to go to the Public Works Department in order to be able to get some of the figures because I know the Chairman of Senate Finance Committee was trying to get these figures from Public Works and somehow we weren't getting these figures. Unfortunately, I got into a small accident on the way to the Public Works, which I had not intended. Anyway it was just scratching fenders and it wasn't too serious. But still I wasn't able to get the figures I wanted. But I did get the figures by getting together with Mr. Olson, who is the Superintendent of the Vocational College in Berlin. We got hold of Public Works yesterday and were able to get the figures you were looking for, Mr. Chairman, and I can assure you that the figures we got are completely different than what has been submitted to both the House Appropriations and the Senate Finance Committees. The amount per square foot that was submitted to the Committee was \$55.00 per square foot and come to find out in the \$55.00 per square foot for the bakery and cafeteria extension, it included some equipment that was not even necessary. In the bakery part of it as far as the extension, the cafeteria kitchen has already been built and, therefore, wasn't needed. The \$55.00 had been increased and quite a difference from what they had for the auto shop because the auto shop was \$46.00 per square foot. But now these figures by doing the auto shop, the bakery, kitchen and the cafeteria extension—the whole 3 can be done for \$300,000.00; not only the bakery and the cafeteria extensions, but also the auto shop for the same amount of money as was in the figures submitted to the House Appropriations and Senate Finance committees—\$300,000.00 for both. Now we are positive that \$300,000.00 will take care of the 3 of them. At the same time, it is felt that, if the 3 are done all at once, it can be done a lot cheaper than if we turn around and put into construction and put in specifications for the auto shop it would certainly cost \$46.00 per square foot and, therefore, by doing the 3 of them, we feel it can be done for \$42.00 per square foot which is quite a difference from \$42.00 to \$55.00 per square foot.

The equipment that is needed and included in the \$300,000.00 is \$18,000.00 of equipment and this is for the bakery

kitchen. As far as for the cafeteria extension where there had been some equipment added into it which was not needed and not requested and, therefore, the only thing that is needed is 40 tables and 160 chairs at a total amount for the equipment is \$18,000.00 and the cafeteria tables and chairs amount to \$2,000.00. But the whole request that is necessary to take care of the whole thing would be \$300,000.00 and this I have also stated to the Chairman of the Finance Committee and I also spoke with Arthur Drake, the Chairman of the Appropriations Committee, and they have agreed and told me they would take this matter up in the Committee of Conference which I deeply appreciate. But one more thing. I would like to thank my good colleague from the 2nd District because if it had not been for him, I wouldn't have known that the cafeteria had been taken out of the Capital Budget and, therefore, I want to thank him for bringing this to my attention and getting me on the ball getting some figures for the Finance Committee.

Adopted.

Senator Spanos moved adoption of an amendment.

Sen. SPANOS: The amendment which I offer at this time amends the Senate version of the Capital Budget which we have just adopted so as to include up to \$1,250,000.00 to install snow-making machinery at Mt. Sunapee with 50-50 matching funds from the Federal Government's BOR Program. I might say that I am not springing a new issue on the Senate inasmuch as I proposed this amendment to the Senate Finance Committee last week. It voted against its inclusion. However, I indicated to the Senate Finance Committee at that time that I would leave it up to the whole Senate to be the court of last resort on this issue.

I would like to start by telling you that this winter has been the worst ski winter in the history of the Park and they had two bad winters just prior to this one. As of March 13, 1974, it had only 19 inches of snow and operated less than 30 days with limited operations on most of those days. The snowless season has raised significant problems for the State and the area and, because of this concern I am submitting this amendment for your consideration and I do so for the following reasons.

1. There has been a significant direct loss of revenue to the State with figures running from \$150,000.00 to a quarter of a million dollars. Over 1970-71, we had a fairly good season at the

Park and gross revenues were \$708,000.00. As of this year, gross revenues are about \$146,000.00.

2. The lack of snow has, in fact, shortchanged the people of our State who have purchased season tickets costing hundreds of dollars.

3. There has been an indirect loss of revenue to the State because of the loss of meals and lodging taxes, cigarette taxes, beverage and even business profits taxes.

4. There has been an indirect loss because many people are not coming up here to buy second homes.

5. There has been a drastic loss in revenue to the people of the area, which is probably one of the key issues here that we are discussing. And this area includes Sullivan, Merrimack, Grafton and Cheshire.

I would like to give you just a few comments of some of the people on what has happened during this winter at the Park:

"I had an almost non-existent occupancy right from the start. I lost about \$5,000.00 from last year's income." "I don't think we made expenses." "Business was almost zero." "If my husband wasn't working, we'd be in trouble."

At least one business has failed that we know of and others are threatened.

It is very ironic that every major ski resort has installed snow-making equipment. It must be commercially feasible; otherwise, why invest that kind of money in a losing proposition? Look at Pike's Peak for instance. It recorded 16 inches of natural snow as of March 13, 1974 and yet operated 68 days to Sunapee which had less than 30. Cannon has operated since December 20—sometimes limited but generally good skiing despite the lack of natural snow. Sunapee, which generates more revenue for the State in most years, had income of \$146,000.00 for this last year while Cannon had double that and yet Sunapee has always had more revenue than Cannon.

I could go on and on, but it seems to me that we should proceed to construct the facility now so that we can avoid two more bad winters. The Parks Division knows where the location will be; they have made preliminary studies. There are studies on where the water will come from to create the snow and the

only thing that appears to be left to be determined is what snow making system to use. As far as a feasibility study is concerned, my understanding is that Cannon did it similar to the way I am asking you to do it now—have preliminary studies and then generalized and improved on those studies. Besides, what makes Mt. Sunapee any different type of a mountain than some of the mountains that have snow-making now? I don't think it is any different.

I have always supported the requests of my fellow Senators in this Chamber when they made requests for the economy of their area and I just recently remember supporting Senator Lamontagne's bill for an Industrial Park and Senator Poulsen's bill for Mt. Washington and the Port Authority for Senator Preston. I guess probably if I took all my 4 terms in the Senate, I might find something for each and every one of you. Now, I am asking for reciprocity not only in the interest of the area which Senator Jacobson and I represent, but in the interest of all the people of the State—north, south, east and west—because it is good for recreation, good for the economy and good for State revenues.

Now, after considerable pressure from certain legislators and skiers throughout the State and business operators, I understand to some degree the Governor is sympathetic to the amendment and will not raise any great problem regarding the insertion of this item in the Capital Budget.

Without in any way minimizing the cooperative effort made by the Senate Finance Committee, particularly the Chairman, which added \$2,500.00 to the feasibility study suggested by the House and \$80,000.00 for engineering plans if feasibility is shown—for which I am grateful—I ask you to let us go full speed ahead in the installation. Let's think in terms of people and let's give Mt. Sunapee a "Snow Job" in the best sense of the term.

Finally, I would like to say that the Capital Budget bill before you, even with this amendment, is one which, if passed by this Legislature, will not be vetoed by the Governor. First, the largest sum of money which we restored in the Capital Budget happened to be in the area of the Nashua Vocational-Technical College, which was an amendment introduced by Senator McLaughlin, and an appropriation for the Claremont Vocational-Technical College, which was an amendment which I intro-

duced—totalling almost \$2,500,000.00 And, incidentally, the Governor supports both those college appropriations.

Secondly, the reason I feel the Governor will not veto the Capital Budget is that he can ill afford to watch spiralling inflation continue for another year to increase the costs of our capital improvements and he can ill afford to neglect the needs of our children, our elderly, our veterans and our physically and mentally infirm.

I urge your support of this amendment. I think it is the best thing you could do in this entire Senate Session.

Sen. JACOBSON: I rise in support of the amendment. I do want to correct Senator Trowbridge on one point and that is it was only Senator Spanos who gave forth rhetoric. I tried to deal in the facts.

First of all, I listen to Roxie's Ski Report every day and over and over again this past winter the snow-making places have been operative and the non-snow-making places have been inoperative. This is true south of Sunapee, as well as north of Sunapee. In the 1973 Session—and I call your attention to page 956 of your Senate Journal—it is talked about the meteorological information and, interestingly enough, it refers to warm weather days. Well, obviously, you can't make snow in warm weather days. But, this winter there have been at least 40 days where there has been snow-making potential because of the meteorological conditions—that is it has been at the right temperature. That is fact No. 1. And, if the equipment had been installed this year, Sunapee's losses would have been cut.

The second fact is that it is more than the snow-making on the mountain—it is more than just the skiing. It is the multiplier factor that comes from the people who come to ski. As they come, they buy from the inns; they buy from the stores; they buy from the gas stations and all of these, in turn, buy from other people so that the loss factor in terms of the people of the area is much greater than the revenue factor alone. And, even if we did not make money, we would be creating this multiplier factor which would, in fact, help the people of New Hampshire. We are willing to subsidize all kinds of groups and I see no difference with these people than other groups.

The third fact is that in the snow-making situation you are most principally appealing to the largest percentage of people

who come to ski. There has been a lot of talk about dragging the thing up to the top of the mountain on the expert trails. They constitute a minimum number of people who come to ski on the ski slopes. It is to that area and to those areas where the majority of the people like myself who take lots of spills who are not experts, but they are the people who are coming to ski at all of these resorts. The people who are experts, they are going to find their places to ski. They are not the problem. So, these are the majority of the people who are coming. They are putting their dollars into New Hampshire. They are putting dollars into the pockets of New Hampshire people and I think, for that reason, if nothing else, we ought to support this amendment.

Sen. GARDNER: I am very much in favor of putting a snow-making machine on Mt. Sunapee. I remember back awhile we had to fight real hard and I helped fight for the ski lift and it has paid off and paid off well. I don't think that you can run a business unless you can compete with other businesses and this is a business of the State and it is very badly needed. Sure, they talk about these studies. You can study and study, but, if other people in the same area—Pat's Peak—can operate so many days this winter, there is no reason why Sunapee could not operate. I have lived in that area for 3 years before I came down to the Lakes Region and I know how much it means to the people in the area, how much they have increased their businesses since the Park was improved and developed and I am very much in favor of it.

Sen. FERDINANDO: I am in support of the amendment. I normally am against any unnecessary spending but I do feel that the \$862,000.00 is money that we are going to get back in the room and meals tax, liquor we will be able to sell in the State and cigarette tax. I think it is money well spent.

Sen. TROWBRIDGE: I am reminded a little bit of the family of a friend of mine who lived on Cape Cod and in 1956, after several hurricanes, decided to move their house 100 feet back from the shoreline because of future hurricanes and spent some \$50,000.00 doing that and have yet to see another hurricane coming by.

I think at this point the judgment of the Senate Finance Committee was that you wouldn't do anything more between now and next winter than get the engineering going and we have provided for exactly that—that the feasibility study and the

engineering, if necessary, is in the budget. Who is to say that you are always going to have bad winters like this?

Secondly, you talk about Pat's Peak. I think you raise a number of issues there. Pat's Peak is one-third the size of Sunapee, hence its feasibility is no question. What happens is Pat's Peak doesn't do as well when there is good snow because it has to compete against Mt. Sunapee and yet here private enterprise has made its competitive advantage by putting in snow-making machinery on a small mountain and the State is then going to go out and put in the same at taxpayer expenses a good deal of money to compete with the private operator at Pat's Peak. I think there is a policy of consideration at that point.

But, primarily, I think the fact is that the testimony we received is that there isn't any equipment that people know about right now that is able to pump water for Mt. Sunapee all the way up and down the mountain and they made it clear that the popularity of Mt. Sunapee is not on its lower slopes but on the whole scope of the mountain. And that is what people come to Mt. Sunapee for. That is what I go to Mt. Sunapee for—not just the lower slopes. I think we have to be like any other business—if we are going to be in business—and take a look at exactly what it is going to cost, whether it is feasible and the amendment here—if I wanted to be clever, I could say let's adopt the amendment because I think the chances of getting 50% federal funds are almost zero for this particular installation. Therefore, you could put this amendment in and they could get the bids in and find there are no federal funds and they could not put the thing up. I could be clever and never raise the issue, but I am not trying to do that. I think you are going to find that you would want to go between now and next session to find out the technical feasibility, the engineering and the economics as to whether there are going to be federal funds available or not because that makes a rather dramatic difference of bringing it down to \$862,000.00 from \$1,250,000.00. If that is not true, then this Senate is not really dealing with the issue. I think we should go slowly. We should go cautiously. We spent a lot of time planning every other item in the Capital Budget. The Health & Welfare Building and all these other major investments have been carefully planned and costed out and I think we are just taking the wrong direction here at this time to raise the Capital Budget up and to raise the hopes of people at Mt. Sunapee, perhaps falsely, that



we are going to put snow-making machinery in and then find out (1) it is either not feasible or (2) there are no federal funds. I think it would be disservice to jump that quickly. I think what we have done is show our concern that we are not ignoring the problem that Senator Spanos and Senator Jacobson have brought up. We are moving forward to get the answers from someone other than just the Parks Division and I think that is the proper way. I hope you will defeat the amendment just on the idea of an orderly, businesslike way to go at the problem.

Sen. SPANOS: I am very sure you did not intend to infer that when I asked for federal funds and inserted that in my amendment, I did not know what I was talking about. You will admit that under questioning by the Senate Finance Committee of Mr. Sullivan of the Parks Division he did make the statement to us that there were BOR funds available?

Sen. TROWBRIDGE: Under further questioning, he had to admit there *may be* BOR Funds available but right now they are *not* because they are not funding these kinds of things which are really competitive with private ski areas just like he is *hoping* there will be federal funds for the Mt. Washington situation. Up until right now there are no federal funds available for Mt. Washington. They think there may be a policy change. Fair enough. If there were a policy change for BOR Funds, then that would make a difference. But that policy change has not come through yet. So that is the kind of speculative answer I think is dangerous.

### ROLL CALL

Roll Call requested by Senator Gardner. Seconded by Senator Spanos.

Yeas: Sens. Gardner, Jacobson, Spanos, Blaisdell, Claveau, Ferdinando, Brown, Bossie, Downing, Preston, Foley and Nixon.

Nays: Sens. Lamontagne, Poulsen, S. Smith, Bradley, Green, Trowbridge, Porter, McLaughlin, R. Smith, Sanborn, Provost, Johnson.

Result: Yeas 12; Nays 12.

Amendment lost.      Ordered to Third Reading.

**HB 3**

relative to establishment of a food stamp program and making an appropriation therefor. Ought to pass. Senator Foley for Finance.

(Senator Porter in Chair)

Sen. FOLEY: This bill authorizes the Division of Welfare to develop and administer the food stamp program in this State starting the date the bill is enacted into law and appropriates the funds needed for said program for the present biennium. The food stamp program plan is operating at the present time in every state in the union with the exception of New Hampshire. We in New Hampshire still use the commodity food plan otherwise known as the surplus food plan. However, the Federal Government is discontinuing the surplus food program as of July 1. The food stamp program hopefully will then begin to function. Food stamps will be purchased by those who have been certified by the New Hampshire Welfare Department, the operator of the plan. An amendment was proposed to the Senate Finance Committee asking that the program be directly under the Governor and Council who may delegate the Welfare Department to implement the program. The Committee studied this amendment and made calls to Washington but felt the program should be a part of the New Hampshire Welfare Department exclusively. The appropriation in the first year of the biennium is \$244,954.00; the full second year of the biennium \$1,541,217.00. Six people were to be put on board in May to start the program but now they will be on board in April and this will not change the amount of money. We urge the passage as presented to the Senate at this time.

Sen. BRADLEY: I am in favor of the bill and want to commend the Committee for its study and the position it has taken on the amendment. This is a very significant advance in the welfare system. It is long overdue. We are the last state in the country to adopt the food stamp program and I urge its adoption at this time.

Adopted.      Ordered to Third Reading.

**HB 11**

to increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric

aids at the New Hampshire Hospital and making appropriations therefor. Ought to pass with amendment. Senator S. Smith for Finance.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### An Act

to increase the salaries of state classified employees and employees of the university system and Educational TV and providing differential pay to classified prison employees and correctional psychiatric aides and nurses reclassification at the New Hampshire Hospital and making appropriations therefor.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Classified Salaries for Second Year of the Biennium. Amend RSA 99:1-a (supp), as inserted by 1973, 377:2, by striking out said section and inserting in place thereof the following:

99:1-a Salaries Established. The salary ranges for all classified state employees, commencing June 21, 1974, shall be established as follows:

Salary Grade	Min.	Step 1	Step 2	Step 3	Max.
1	5415.02	5541.12	5666.44	5792.80	5917.34
2	5541.12	5666.70	5791.24	5916.30	6041.36
3	5666.70	5791.24	5915.26	6040.06	6165.38
4	5751.46	5913.44	6078.54	6272.24	6478.16
5	5916.04	6122.74	6359.60	6596.72	6834.10
6	6115.98	6352.84	6590.48	6827.60	7064.46
7	6377.54	6652.36	6927.18	7201.74	7476.56
8	6608.16	6882.98	7164.04	7432.36	7707.18
9	6838.00	7113.08	7387.64	7662.72	7937.54
10	7074.86	7343.70	7618.52	7898.80	8268.00
11	7299.24	7643.48	7988.24	8333.00	8677.76
12	7629.70	8015.02	8400.08	8785.40	9170.72
13	7845.76	8276.06	8711.82	9144.72	9577.88
14	8284.12	8734.18	9183.98	9634.04	10083.84

15	8685.56	9155.52	9619.48	10089.04	10555.74
16	8954.92	9441.64	9928.10	10411.96	10901.02
17	9227.66	9733.88	10237.24	10740.34	11243.96
18	9620.78	10155.08	10689.38	11223.68	11757.98
19	10014.16	10576.54	11141.78	11707.02	12269.66
20	10421.32	10986.56	11554.66	12122.76	12690.86
21	10829.00	11399.70	11970.40	12538.50	13109.46
22	11351.34	12009.40	12667.20	13322.66	13983.58
23	11871.34	12554.62	13238.16	13918.58	14604.72
24	12391.08	13099.58	13808.34	14516.84	15225.60
25	13237.12	14004.90	14769.56	15534.74	16302.26
26	13655.72	14437.28	15221.96	16003.78	16785.60
27	14074.58	14873.04	15671.76	16470.22	17271.80
28	14515.28	15356.12	16196.96	17037.80	17878.64
29	14958.84	15839.46	16722.16	17602.52	18485.48
30	15403.18	16325.66	17247.88	18170.36	19095.44
31	16471.00	17430.14	18391.88	19350.76	20312.50
32	17539.34	18537.74	19533.28	20531.68	21530.08
33	18835.44	19934.98	21034.52	22131.20	23230.74
34	20134.14	21332.22	22533.16	23730.98	24931.92

2 Date Change. Amend RSA 99:3 (supp), as amended by striking out said section and inserting in place thereof the following:

99:3 Increase in Salary. Classified employees of the state as of June 21, 1974 shall be placed in the corresponding steps in the new salary ranges as their length of service justifies and their annual salaries shall be in accordance with the salary scales set forth in RSA 99:1-a. The provisions hereof shall not be construed as affecting so-called longevity payments which shall be in addition to the regular salary scale.

3 Appropriations. There is hereby appropriated for the fiscal year ending June 30, 1975 for the salary increases for classified state employees as provided herein, the following sums: \$2,265,120 from the general funds to the state; \$1,009,320 from highway funds; \$97,760 from fish and game funds; \$500,240 from federal funds; and \$147,160 from self-sustaining and toll funds. The governor is authorized to draw his warrants for the sums hereby appropriated.

4 Appropriations for Temporary and Seasonal. There is hereby appropriated for the fiscal year ending June 30, 1974 for salary increases for temporary and seasonal employees as pro-

vided herein, the following sums: \$262,401 from the general funds of the state; \$88,712 from highway funds; \$5,357 from fish and game funds; \$98,487 from federal funds; and \$16,975 from self-sustaining and toll funds. The governor is authorized to draw his warrants for the sums hereby appropriated.

5 Appropriations for Retirement and OASI. There is hereby appropriated in addition to any other sums appropriated for retirement and OASI for fiscal year ending June 30, 1975 the following sums: \$192,536 from the general funds of the state; \$85,793 from highway funds; \$8,310 from fish and game funds; \$42,520 from federal funds; and \$12,509 from self-sustaining and toll funds.

6 Appropriations for Retirement and OASI; Temporary and Seasonal. There is hereby appropriated for fiscal year ending June 30, 1975 for retirement and OASI for temporary and seasonal employees as provided herein the following sums: \$18,368 from the general funds of the state; \$6,210 from highway funds; \$375 from fish and game funds; \$6,894 from federal funds; and \$1,187 from self-sustaining and toll funds.

7 University System Employees. There is hereby appropriated for fiscal year ending June 30, 1975 the sum of \$1,099,280. The sum hereby appropriated shall be used by the trustees of the university of New Hampshire to increase the annual salaries of those employees of the university system whose salaries are equivalent to those within the state classified employee salary structure by \$520, effective June 21, 1974. This appropriation shall not be transferred or expended for any other purpose. The governor is authorized to draw his warrant for this sum out of any money in the treasury not otherwise appropriated.

8 New Hampshire Network Employees. There is hereby appropriated for fiscal year ending June 30, 1975, the sum of \$26,520. The sum hereby appropriated shall be used to increase the annual salaries of those employees of the New Hampshire Network whose salaries are equivalent to those within the state classified employee salary structure by \$520, effective June 21, 1974. This appropriation shall not be transferred or expended for any other purpose. The governor is authorized to draw his warrant for this sum out of any money in the treasury not otherwise appropriated.

9 Hazardous Pay for Prison Personnel and Correctional

Psychiatric Aides. Amend RSA 99 by inserting after section 9 the following new section:

99:10 N. H. State Prison and State Hospital. Classified employees at the state prison and correctional psychiatric aides at the state hospital shall be paid in addition to their regular salary, hazardous duty pay in the amount of twenty-five dollars per week.

10 Appropriation. There is hereby appropriated for the fiscal year ending June 30, 1975 the sum of two hundred one thousand five hundred dollars for the purposes of section 9 of this act. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

11 Increasing Salary Grade of Nurses at the New Hampshire Hospital. The Department of Personnel is hereby authorized and directed to increase two salary grades all classified positions at the New Hampshire Hospital which require a psychiatric nurse, a registered nurse or a licensed practical nurse.

12 Effective Date. This act shall take effect June 21, 1974.

Sen. S. SMITH: This bill is amended by the Senate Finance Committee to include also those employees of the New Hampshire Network whose salaries are equivalent to those within the State Classified Employees salary structure by \$520.00. This brings it into line with all classified employees in the major portion of the bill.

The further amendment is for hazardous pay for prison personnel and correctional psychiatric aids. The classified employees at the State Prison and correctional psychiatric aides at the State Hospital shall be paid, in addition to the regular salary, hazardous pay duty in the amount of \$25.00 per week.

In addition to that, the bill has also been amended to give an increase in salary grade to nurses at the New Hampshire Hospital by two grades, which would amount to approximately \$20.00 a week.

The total cost of the original bill and the amendments out of the General Fund comes to \$4,065,000.00. It is a base \$520.00 a year across the board increase. The total to the State, including General Funds, is \$6,193,000.00.

I have an additional amendment which, if accepted, would also include in the nurses not only the ones at the Hospital but also the ones at Laconia State School, which I will offer after the report of the committee.

Sen. TROWBRIDGE: Was it true that we were asked to modify the salaries of certain unclassified employees and what did we do in that respect?

Sen. S. SMITH: The Committee had, and individual members of the Committee had, and have had as recently as this morning requests for unclassified state employees to be included in this bill. These requests were basically special situation types of requests. I think the Committee felt that these requests were legitimate and that they should be taken care of, but should be taken care of at the 1975 Session when the whole situation of unclassified salary pay can be more adequately answered and more adequately evaluated.

Adopted.

(Senate President in Chair)

Sen. S. Smith moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

to increase the salaries of classified employees and employees of the university system and the New Hampshire Network and providing differential pay to classified prison employees and correctional psychiatric aides and providing nurses' reclassification at the New Hampshire Hospital and Laconia State School and making appropriations therefor

Amend the bill by striking out section 11 and inserting in place thereof the following:

11 Increase of Salary Grade of Nurses at N. H. Hospital and Laconia State School. The department of personnel is hereby authorized and directed to increase two salary grades all classified positions at the New Hampshire Hospital and the Laconia

State School which require a psychiatric nurse, a registered nurse or a licensed practical nurse.

Sen. S. SMITH: This amendment would apply to the nurses at the Laconia State School who also have many of the same problems as do the nurses at the New Hampshire Hospital and I hope that the Senate will look favorably upon this amendment. I believe the cost is estimated at approximately \$26,000.00.

Sen. TROWBRIDGE: I would like to rise in support of Senator Smith's amendment. When we were doing the budget and HB 11 on Thursday, we were so behind we did not have time to find out exactly how many nurses were involved at Laconia State School which would have the same kind of difficulty really in hiring and keeping them as the New Hampshire Hospital. So Senator Smith very kindly went out and got the figures and hence, this would have been probably a Committee amendment had we had the figures on Thursday. So I support the amendment.

Adopted.      Ordered to Third Reading.

#### **HB 17**

increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor. Ought to pass with amendment. Sen. R. Smith for Finance.

#### **AMENDMENT**

Amend the bill by striking out section 2 and inserting in place thereof the following:

2 Appropriation. There are hereby appropriated for fiscal year ending June 30, 1975 for the purpose of section 1 of this act the following sums: \$81,161 from general funds, \$35,452 from highway funds, \$1,000 from fish and game funds, \$30,409 from special funds. The governor is authorized to draw his warrant for the money hereby appropriated which shall be a charge against the general fund and against each special fund as designated.

Sen. S. SMITH: You have all just heard the State employees' pay bill. This is the State employees' mileage bill. This increases the mileage rate for the State employees for using their private cars from 10¢ to 12¢ a mile. I think all of us are aware



of what has happened to the price of gasoline lately and I am sure you will sympathize with the State employees as the Senate Finance Committee did.

Adopted.      Ordered to Third Reading.

### **HB 35**

providing for twenty years retirement for members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for Finance.

### **AMENDMENT**

Amend RSA 100-A:5, II (supp), as inserted by section 1 of the bill by striking out said paragraph and inserting in place thereof the following:

#### **II. Group II Members.**

(a) Any group II member in service who has attained age forty-five and completed twenty years of creditable service may retire on a service retirement allowance upon written application to the board of trustees setting forth at what time not less than thirty days nor more than ninety days subsequent to the filing thereof, he desires to be retired, notwithstanding that during such period of notification he may have separated from service. Any group II member in service who attains age sixty-five shall be retired forthwith or on the first day of the next following month.

(b) Upon service retirement, a group II member shall receive a service retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

(2) A state annuity which, together with his member annuity, shall be equal to two and one-half percent of his average final compensation multiplied by the number of years of his creditable service not in excess of twenty years, plus two percent of such compensation multiplied by the number of years

of his creditable service in excess of twenty years; provided, however, that such allowance shall not exceed seventy-five percent of the member's average final compensation at the time of his service retirement.

Amend the bill by striking out all after section 9 and inserting in place thereof the following:

10 Transfer of Classification. Amend RSA 100-A:18, (supp) by inserting after paragraph III the following new paragraph:

IV. Any person who is a member of a predecessor retirement system or who is a Group I member of this system and who is authorized to transfer to become a Group II member of this system shall before he is so transferred, pay all the payments required by paragraph II and in addition a sum sufficient as actuarially determined to reimburse the system for any unfunded accrued liability resulting from such transfer.

II Appropriation. There is hereby appropriated the sum of one hundred fifty-three thousand six dollars for the 1975 fiscal year representing the state's share of the cost of carrying out the purposes of this act. The governor is authorized to draw his warrant for the sums herein appropriated from the money in the treasury not otherwise appropriated.

12 Budget. The board of trustees shall include in its budget submitted to the general court for all fiscal years beginning with the 1976 fiscal year a specific sum representing the state's subsequent appropriation for the cost of carrying out the purposes of this act.

13 Effective Date. Section 10 shall take effect upon passage; all other sections shall take effect July 1, 1974.

Adopted.

Sen. TROWBRIDGE: There are two amendments here actually being offered. One is in the *Calendar*. As you know, the House of Representatives voted 2 to 1 in favor of HB 35, the police and firemen's 20 year retirement bill, on the floor. It came into the Senate Finance Committee without any amendments. We heard a great deal of testimony indicating that most of the policemen and firemen start somewhere around 25 years of age and so, if they had a 20 years retirement bill, they would most

of them retire around 45, or be eligible to retire, if this went through, at 45. There was some pretty well agreed discussion that to just allow 20 years alone with no minimum age requirement could leave the State open, and the calculations of the actuary on the cost of this program open, to a good deal of question. So, I posed to the policemen and firemen groups as to whether they would agree to have a minimum 45 year old limit and it has been generally agreed that the 45 year old minimum age can be lived with. The amendment, primarily, puts that in. There has to be 20 years *and* 45 years of age. So that was one issue that was pretty easily overcome.

The second issue is more complicated. That is that you have a number of people who are in Group II in the Old System of the policemen and firemen. Most of those people, who were 35 years or older when the New Retirement System was set up in 1967—if they were 35 years or over under the present System they are in, they will retire in 20 years at 55 which is the age limit there. So, there isn't that much push for those people. But, if you were to have some people who were in the Old System now who are younger than 35 or let's say 30 and had a whole bunch of them transfer into the New System now, the amount of accrued liability that this New System would have to pick up for them could be enormous. It could be in the neighborhood of \$20 million. We have to protect the System from these accrued liabilities. Arthur Drake is working up a report right now as to how many accrued liabilities we still have unfunded in this New System and it comes to something in the neighborhood of \$20 million to 25 million even now, even after we have been paying for 7 years to pay off the unfunded accrued liability because every time we pass one of these bills such as lowering the age from the 5 years to 3 years, the last 3 years of service as we did last session, that adds to the unfunded accrued liability any time you improve the system. So what we have put in here is that the Section 10 of this amendment says that any person who is going to transfer in hereafter—after the passage of this bill—must pay up not only the normal contribution but the unfunded accrued liability coming from his transfer in order to protect us from having an enormous switch over from the Old System to the New System. All these employees have had an opportunity to switch over from the Old System to the New System since 1967. So, it is not as if you are cutting off something they think they have and haven't had an opportunity to do. Most of

them have calculated that the Old System is better for them personally already and still will be better for them personally even after the passage of this bill. But that is a caution that we put into the bill to protect the State from having to pick up some \$20 million of unfunded accrued liability. Unfortunately when we did the amendment—again late Thursday—we forgot to amend some of the other sections of the bill such as disability and the rest of them with this 45 year limit so the second amendment that will come through only amends Sections 2, 3 and 4 of the bill to bring the 45 year limitation to all sections of the bill. It does not change the thrust of what I have been saying at all. The unfunded accrued liability shall take effect upon passage and that is in order to make sure that we cut off the unfunded accrued liability.

I think we did also agree there is a good sociological reason for having the 20 year retirement rule in some form or another; namely that you are tending to get some people in police or fire work who should have retired, whose health cannot take the activity of the job and they are being forced to stay on to 50 now just because they can't get their half pay retirement. I think we have to recognize that we do put a good deal of burden of rescue and very high activity on the police and firemen and they deserve our consideration. Even though this costs money, the \$153,000.00 a year on this, it will also cost more money than that but luckily we are making some savings on the retirement fund so we are using that also to fund it. But I think there is demonstrated need—Chief Carlson on down, Captain Sweeney and the rest—that we really should consider this and, therefore, I am actively working for the bill and I am also actively trying to make the bill palatable so that when it goes back into the House I can assure you that I think it will have a positive reception in the House and that we will work hard to make sure it does get passed.

Sen. BRADLEY: What effect does this have on the cities and towns and counties?

Sen. TROWBRIDGE: The cities, towns and counties have to pick up their 60% share of this cost. There is no question that the smaller cities that have gone into the System will be picking up a fair amount of money. However, the cost to the State is much greater across the board and testimony was that in the cities the amounts of money per year would not exceed some-

thing between \$10,000.00 and \$15,000.00 and those are in the budget now supposedly in order that this can be taken up by the city budget. I don't think there is an overwhelming cost to the cities and towns, especially with the 45 year limitation and the Municipal Association has indicated to me that with the 45 year limitation, they are much happier with the bill than they were originally. I must say there is no question that it would be nice to be able to pick up all the city and town liability, if they want to have a retirement system. The retirement system calls for 60% city and 40% state—that is the deal and we have not heard a great deal of testimony against the bill from the cities and towns. I expected a great deal more testimony than I heard. Mayor Sullivan was against it, but I don't think he likes retirement systems in general, from what I gather, either voluntary or involuntary. You kind of keep your ear to the ground and, if there were a real rumbling, you would have heard it by now and I have not heard it.

Sen. Trowbridge moved adoption of the following amendment.

#### AMENDMENT

Amend RSA 100-A:6, II (b) (supp), as inserted by section 2 of the bill by striking out said subparagraph and inserting in place thereof the following:

(b) Upon ordinary disability retirement, the group II member in service who has attained age forty-five and completed twenty years of creditable service may retire on a service retirement allowance, otherwise he shall receive an ordinary disability retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

(2) A state annuity which, together with his member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time of his disability retirement; provided, however, that such allowance shall not be less than twenty-five percent of the member's final compensation at the time of his disability retirement.

3 Vested Deferred Retirement Benefits. Amend RSA 100-

A:10, II (b) (supp), as inserted by section 3 of the bill by striking out said subparagraph and inserting in place thereof the following:

(b) Upon the date on which he would have attained age forty-five and completed twenty years of creditable service, a group II member who has made such election shall commence to receive a vested deferred retirement allowance which shall consist of:

(1) A member annuity which shall be the actuarial equivalent of his accumulated contributions on the date his retirement allowance commences: and

(2) A state annuity which, together with his member annuity, shall be equal to a service retirement allowance based on the member's average final compensation and creditable service at the time his service is terminated.

Sen. TROWBRIDGE: This is the amendment to Section 2 which, again, simply puts in the 45 year age limit. The amendment, by the way, was brought up to me by Tom Holton the representative of the firemen and I want to compliment him and Marshall Cobleigh and other representatives of the group who have worked very cooperatively with me.

Adopted.

## ROLL CALL

Roll Call requested by Sen. Blaisdell. Seconded by Sen. Spanos.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Downing, Preston, Foley and Nixon.

Result: Yeas 24; Nays 0.

Ordered to Third Reading.

## HB 30

relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill. Ought to pass with amendment. Sen. Bradley for Judiciary.

## AMENDMENT

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Authorization of Clerical Expenses. Amend 1973, 556:8 by striking out said section and inserting in place thereof the following:

556:8 Appropriation. The sum of one hundred thousand dollars is appropriated for the fiscal year ending June 30, 1974 and shall not lapse until June 30, 1975 to the department of health and welfare, division of mental health to provide for the probate court hearings as provided in RSA 135-B, as inserted by section 1 of this act, and as provided in section 7 of this act. The per diem compensation of probate court judges and attorneys, including attorneys for any legal services corporation organized under RSA 292:1-a, who represent indigent patients or indigent persons sought to be admitted, the costs to the state and to indigent persons of transcripts or recordings of hearings, the costs of witness fees for indigent patients or indigent persons sought to be admitted, the costs of an examination of indigent persons by a psychiatrist prior to a hearing for involuntary admission, the costs of clerical expenses incurred by the registers of probate, plus other expenses incidental to such hearings, shall be charge upon the funds hereby appropriated. The attorney general is authorized to employ one or more consultants to represent the state in accordance with the provisions of this act and the register of probate of Merrimack County is authorized to employ an assistant to handle the additional work attributable to the provisions of this act which shall be a charge upon the funds herein appropriated to the division of mental health. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

Sen. BRADLEY: All the amendment does is add a reference to New Hampshire Legal Assistance, not in those terms, but it adds a reference to corporations organized under the statute to represent indigent defendants. This bill is actually a series of amendments to the Civil Commitment Procedure Law which we passed in the last session that has a number of bugs in it or a number of problems. The bill itself extends the period of emergency diagnostic detention from 15 to 30 days, it being found

that 15 days was too short a time in which to conduct the tests and diagnoses. The period within which an involuntary commitment hearing must be held has been extended from 5 to 10 days. Again, it was a problem of having these hearings held in such a short length of time. It authorizes registers of probate to be compensated for their expenses. It authorizes the Merrimack County Register of Probate to hire an assistant to handle the workload and it authorizes conditional releases to be extended indefinitely, provided the patient consents. In summary, this is a bill of several amendments to the Civil Commitment Law we passed last time which will simply make it more workable. It is a little more than housekeeping, but hardly more than housekeeping.

Adopted.      Ordered to Third Reading.

### **HB 37**

to provide for the repeal of the law tending to prohibit hitchhiking. Ought to pass. Sen. Bradley for Judiciary.

Sen. BRADLEY: This bill is quite simple in concept. It actually does not repeal any law. It adds a section to the RSA saying it will be lawful to hitchhike or solicit a ride as long as you are not on the paved portion of the road or highway. It does not apply to the Interstate highway on which, under Federal law, hitchhiking is prohibited. It would apply to the other highways in the State including limited access roads.

This was a bill which passed both Houses last time but somehow ended up in a drawer or something and did not get to the Governor's desk and did not become law. I think the feeling of the Committee on it was that it is something which people do and have always done and probably always will do. There was a significant amount of opposition to it from the Highway Department and from the State Police from the safety angle.

(Senate Vice President in Chair)

### **INDEFINITE POSTPONEMENT**

Sen. Sanborn moved HB 37 be indefinitely postponed.

Sen. SANBORN: Shortly after this bill was lost sometime last year there was quite a long and lengthy piece that came out in *Reader's Digest*, the results of a survey taken on hitchhiking nationwide. It found that many killings, murders, rapes and



whatever you want to call it had been the result nowadays of hitchhiking. I want to be very brief on this; but, this last Fall, two bodies of two young girls were found in Candia, which is in my District. These girls came from Merrimack, New Hampshire. They had been seen at Hampton. Neither of these girls had a car so evidently they had hitchhiked. And their bodies were found on a back road in Candia, the result of hitchhiking. Now, if we want to condone this kind of thing, let's go ahead and pass a law and say we will make hitchhiking legal in New Hampshire but we are only contributing to increased crime. I urge the Senate to support my motion to indefinitely postpone.

Sen. JACOBSON: I rise in support of the motion to postpone indefinitely. Very candidly, I cannot believe that the Senate will pass this bill which, in fact, is an endorsement of all kinds of violations of safety, in addition to those that were mentioned by Senator Sanborn. I think it is a very bad posture for the State of New Hampshire to establish and approve hitchhiking strictly from the position of safety. The Department of Safety, the State Police, the State Highway Department have all brought in evidence against this kind of proposal. I know that whether we defeat or pass this bill, we are not going to stop all hitchhiking because people will continue to do so, but, for the State to put itself on record in favor of the abuse of safety, seems to me to go beyond the bounds of reason.

Sen. NIXON: With due respect to the motion pending and the sentiments expressed in support of it and the opinions of the distinguished Senators who oppose this legislation, I speak in opposition to the pending motion and in favor of the bill for the very simple, practical and, in my judgment, legitimate reason that we have already passed this bill and the only reason it is not law now is because somehow the transmission procedure as between the Senate and the Governor's office in the last day of the session broke down in the understandably hectic pace of things and, as a result, a bill which was passed by both House and the Senate did not go through 100% the mechanical procedures of being transmitted to the Governor for his signature and approval. I don't know whether he would have signed or vetoed the bill. That is beside the point, in my judgment, at this stage of the game. What is at stake is the integrity of the process by which we handle the business here in the Senate. It was a honest mistake. But the point is that we have already passed this bill and, in my judgment, good or bad, the legislation should thus

be passed again so that it can be approved. It will only be next January before the Legislature meets once again and, if in fact this is such a bad bill—as it may be as I respect the opinions of those who oppose it—then there is certainly ample opportunity then to reexamine the whole issue and correct whatever mistake might have been made on the merits. But, for the time being, I would suggest that we have an obligation to correct the error that we made last June and send this bill to the Governor for his approval or disapproval as the case may be. For that reason alone, I hope you will oppose the pending motion and support the passage of the bill.

Sen. FERDINANDO: Senator Bradley, what are the other states doing? Is this going to be a first in the Nation—allowing hitchhiking on state roads?

Sen. BRADLEY: I don't think I have that data.

Sen. FERDINANDO: Do you know whether hitchhiking is permitted in other states?

Sen. BRADLEY: I don't know. I was not present at the hearing but I would refer the question to Senator Porter to see if that question came out at the hearing.

Sen. PORTER: I don't think that evidence was established other than for one state; namely the State of Maine. After the hearing, I was talking with the gentleman from AAA who indicated that it was prohibited through the State of Maine and they were opposed to the bill.

Sen. FERDINANDO: I am in favor of Senator Sanborn's motion. I don't think the fact that we passed this bill last session should be any indication as to how we should vote today. I don't think that two wrongs make a right.

Sen. JACOBSON: I simply rise to try to establish what the facts were in the last session. This was HB 1037, if I am not mistaken, and I saw it on the *Calendar*. I was deeply involved in a whole series of other bills. I wanted to oppose the bill and it got over to Third Reading before I had a chance to know it had happened. I asked Senator Porter who kindly put in a Notice of Reconsideration since I was not present and, in the rush of that period, the Reconsideration never did take place and it laid on the table for reconsideration and that is what, in fact, happened.

Sen. PORTER: I would concur in the remarks made by

Senator Jacobson. That is how it happened last year and, with all due respect, I rise in opposition to the motion as made by Senator Sanborn. I recognize some of the problems and I see that there may be some safety problems involved. We are talking about roads other than the Interstate roads—we are not talking about 93 or 89—we are talking about highways such as Route 101, etc. I am reminded of a couple of weeks ago when I was visiting Washington, D.C. where there were many people backed up for literally miles trying to get gas. The mass transportation system was inadequate and people were hitchhiking along the road—gentlemen such as Senator Sanborn and yourself. They were willing and able and hopeful to get a ride of this nature. I think this might expedite some of the transportation problems we face. It is always to remember it is an optional thing. You don't have to pick up any hitchhikers and, in fact, no one has to go out and hitchhike. I would urge your rejection for the motion as made by Senator Sanborn and support the bill.

Sen. TROWBRIDGE: Senator Bradley, I would like to know what happens now. Whether we pass this bill or not, a lot of people are going to hitchhike. I see an increasing amount of hitchhiking rather than a decreasing amount of hitchhiking by young people. Is it truly illegal for them to hitchhike if we don't pass this bill? Can they be arrested?

Sen. BRADLEY: As I understand the present law, there is one statute that says that no person shall stand on the paved portion of a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle. That is sort of the reverse of it. It tells you what you can't do. It doesn't really tell you what you can do. The implication there is you can hitchhike as long as you are not on the paved portion and I think the Highway Department, at least in some of the testimony, indicates that is what officials tend to believe. However, on controlled access highways, as well as on the Interstate, they are subject to the rules and regulations and the rules there are that you can't hitchhike at all on controlled access and Interstate. I believe really the true effect of this bill is to simply make it clear it is lawful on non-controlled access highways where it probably already is and to legalize it on controlled access highways where it is clearly illegal now.

Sen. TROWBRIDGE: This is primarily to legalize Gerry Parker's hitchhiking on the Everett Turnpike?

Sen. PORTER: Wasn't it brought out in the testimony that this bill does not cover hitchhiking on the interstate highways?

Sen. BRADLEY: That is correct. That is subject to Federal law and Federal regulation.

Sen. PORTER: On 89 or 93 or the 4 lane express turnpikes—other than those highways. A controlled access highway is like parts of Route 101, as I understand it.

Sen. BRADLEY: I am not sure what the designations are. It does not apply, as I read it, to Interstate highways. Hitchhiking on Interstate highways is prohibited under Federal regulations and we can't affect that.

Sen. PORTER: If you had to hitchhike from Keene, do you think that would be permissible or legal?

Sen. BRADLEY: If you could get picked up before you got to the Interstate you probably could make it. But if you got left off on the Interstate, you would be in trouble.

Sen. JACOBSON: Senator Bradley, is it not true that if you got on the Everett Turnpike or Route 3 down in Nashua, under this bill you would be legal getting on there?

Sen. BRADLEY: I believe that is not an Interstate so it would be legal under this.

Sen. JACOBSON: So once you got in a car and traveled north, even though you got on 89, you would already be in. Right?

Sen. BRADLEY: There is nothing illegal about riding in someone else's car.

### ROLL CALL

Roll Call requested by Sen. Sanborn. Seconded by Sen. Nixon.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Green, Jacobson, R. Smith, Ferdinando, Sanborn, Provost, Brown, Johnson and Downing.

Nays: Sens. S. Smith, Bradley, Nixon, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau, Bossie, Preston, Foley and Spanos.

Result: Yeas 12; Nays 12.

Motion. lost.

## PARLIAMENTARY INQUIRY

Sen. DOWNING: If the Body were to vote as they just voted again on the Committee Report, does that mean the Committee Report would be dead?

CHAIR: If such an event occurred, the bill would still be in the possession of the Senate for further action at a later date. It does not die because the Committee Report has not been accepted.

Sen. DOWNING: If, in fact, the Senate failed to take positive action on it—or negative action for that matter—just left it there and we went through tomorrow, would the bill automatically be dead?

CHAIR: That is my understanding.

Division: Yeas 12; Nays 12.

Motion lost.

## LAID ON TABLE

Sen. Jacobson moved HB 37 be laid on the table.

## PARLIAMENTARY INQUIRIES

Sen. BRADLEY: What is the difference between leaving it where it is and putting it on the table?

CHAIR: This is the parliamentary procedure to, in fact, put it in its proper perspective.

Sen. BRADLEY: If we lay it on the table, we would need a majority vote to get it off the table, is that correct?

CHAIR: Yes.

Sen. LAMONTAGNE: How can a person make a motion when it is a tie vote and the Chair has already voted?

CHAIR: A new motion was offered by Senator Jacobson, which is to lay this bill on the table and which is perfectly in order. The motion for indefinite postponement did not carry, third reading did not carry and the bill is now in limbo. Therefore, the proper parliamentary procedure would be to have the motion to lay it on the table at this time.

Sen. LAMONTAGNE: My experience in the past has been

that on a 12 and 12 vote it has been a dead issue and neither side could make a motion.

Sen. PORTER: Does this need a majority to be put on the table?

CHAIR: Yes.

Sen. JACOBSON: Would it be proper to follow exactly the same procedure we did with SB 141 in the regular session wherein we did again have a 12 to 12 vote on both issues and I believe Senator Trowbridge moved to lay it on the table. Would it not be proper to follow the same procedure at this time?

CHAIR: The Chair is always a man of precedence and agrees with you.

Adopted.

## **HB 27**

relative to amending certain provisions of the Off Highway Recreational Vehicle Law, RSA 269-C. Ought to pass. Sen. Blaisdell for Recreation and Development.

Sen. BLAISDELL: If you remember, in the last session of the Legislature we passed HB 10. I would like to talk to you about some of the things that came up after we went home. Representative Gorham, sponsor of this bill, put this bill in to try to clear up some of the mass confusion regarding HB 10, as passed during our regular session. One section of this particular bill nullified pistol permits when carried on certain types of vehicle—the OHRV's. After looking into this, it was found that an OHRV could be interpreted as any legally registered vehicle, including family cars. This was not the intent of HB 10. There was a great sense of concern about this bill not only by sportsmen but by the law enforcement agencies. We had a lot of testimony in my Committee. Paul Doherty, Supervisor of the newly created Bureau of Off Highway Vehicles appeared in favor of HB 27 as it passed the House. Mr. Doherty also stated that it cleared up three very gray areas. And I will repeat them—Number 1 that there has been some confusion in HB 10 as it said in effect that all properly registered vehicles would, when operating off the highway become OHRV's. This would include family vehicles and this bill would clarify that particular part of the bill. There also was a problem with crossing limited access and controlled access highways and this bill certainly clarifies

that. It gives the Highway Department the right to spell out what is a limited access and controlled access highway. The third problem is in reference to the pistol permit and also the casing of guns and pistols. He said he saw no reason why the basic pistol permit law, which has been on the books for many years, should not apply and he also agreed with the case and holder removal.

So to clear up this confusion, I ask your support of the Committee report that this bill ought to pass.

Sen. LAMONTAGNE: Can you tell me if I have a gun rack in my pickup, do I have to put that gun in a case?

Sen. BLAISDELL: Under the old law that we passed in the last session of the Legislature, the answer is yes. This had nothing to do really with cars or trucks or anything like that. It was just on the off highway vehicles and it was interpreted as being trucks in our bill that we passed. This bill would clarify that.

Sen. LAMONTAGNE: What happens to the same vehicle, a pickup going into the woods not even registered and used as an off the road vehicle? Does that gun have to be in a gun case?

Sen. BLAISDELL: No.

Sen. LAMONTAGNE: Are you sure?

Sen. BLAISDELL: I am positive.

Adopted.      Ordered to Third Reading.

## **HB 18**

requiring local approval prior to approval of site plans for oil refineries. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

## **AMENDMENT**

Amend the title of the bill by striking out same and inserting in place thereof the following:

## **AN ACT**

requiring local option for siting of oil refineries.

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Local Option Required for Towns. Amend RSA 31 by inserting after section 108 the following new section:

31:109 Local Option for Oil Refinery Siting in Towns. Notwithstanding the provisions of any other law, an oil refinery shall not be located in any town without a vote of approval of a majority of the voters present and voting on the question at an annual meeting or a special town meeting called for such purpose. All votes on the question shall be taken by written ballot. The following question shall be placed on the ballot "Shall an oil refinery be permitted within the town of ( )?" Said question shall be printed in the form prescribed by RSA 59:12-a. If a majority of those voting on the question shall vote in the affirmative, approval of the location of the oil refinery in the town shall be deemed granted. If a majority of those voting on the question shall vote in the negative, such approval shall be deemed not granted and no oil refinery may be located in such town unless approval is subsequently granted in accord with this section. Nothing in this section shall be construed as changing, modifying or affecting in any way the provisions of RSA 31 and RSA 36 relating to zoning regulations.

2 Local Option Required for Cities. Amend RSA 47 by inserting after section 26 the following new section:

47:27 Local Option for Oil Refinery Siting in Cities. Notwithstanding the provisions of any other law, an oil refinery shall not be located in any city without a vote of approval by one of the procedures specified in paragraphs I, II or III.

I. A site plan for an oil refinery may be approved by a two-thirds vote of the entire governing body of any city.

II. If the governing body of a city should vote to place the question of whether or not to approve the location of an oil refinery in said city on the ballot for referendum, it may place said question on the ballot to be voted upon at any regular municipal or biennial election, or at a special election called for the purpose of voting on said question. Such special election shall be held at the usual ward polling places by the regular city election officers. Should a referendum be held, the following question shall be placed on the ballot: "Shall an oil refinery be permitted within the city of ( )?" Said question shall be printed in the form prescribed by RSA



59:12-a. If a majority of those voting on the question shall vote in the affirmative, then such approval shall be deemed granted and the governing body of the city shall be bound by the outcome. If a majority of those voting on the question shall vote in the negative, such approval shall be deemed not granted and no oil refinery may be located in such city unless approval is subsequently granted in accordance with this paragraph or paragraph III.

III. Upon submission to the governing body of a city of a petition signed by at least ten percent of the registered voters of said city requesting a referendum on the question of whether or not an oil refinery should be located in said city, the governing body shall direct that such question appear on the ballot at the next regular municipal or biennial election. If said petition is submitted at any time prior to two months before the next regular municipal or biennial election, the governing body shall direct that a special election be called. The election procedure and the form of the question shall be provided in paragraph II. If a majority of those voting on the question shall vote in the affirmative, then such approval shall be deemed granted and the governing body of the city shall be bound by the outcome. If a majority of those voting on the question shall vote in the negative, such approval shall be deemed not granted and no oil refinery may be located in such city unless approval is subsequently granted in accordance with this paragraph or paragraph II.

IV. Nothing in this section shall be construed as changing, modifying or affecting in any way the provisions of RSA 31 and RSA 36 relating to zoning regulations.

3 Effective Date. This act shall take effect upon its passage.

Sen. PORTER: HB 18 was the subject of several hearings in the Senate and in the House, of course. In particular in the Senate, we had a hearing in Portsmouth which was widely attended and we had one fairly well attended here in Concord. The amended version of the bill basically takes the subject of the local referendum out of 162-F dealing with site selection and puts it in another section of the statute, namely RSA 31. Basically the bill provides for a referendum dealing with oil refineries in either towns or cities in the State. The bill calls for a written ballot in towns at either an annual or a special town

meetings. It has to be a positive indication that town desires to have an oil refinery, notwithstanding any other of the provisions of RSA 31 or 36 relating to zoning. In the cities, this same action may take place in one of three ways—two-thirds vote of the governing body of the city or by a vote by this governing body to put it out to referendum for all the people to vote for either at a special or a regular election and, thirdly, 10% of the voters of the city, registered voters, may request a referendum to ask the same question.

The necessity for the bill probably evolves from the incidences and occurrences which we have been observing the past few months in the seacoast area and deals with self-determination; it deals with home rule. A lot of people have put in a lot of work on this and a lot of testimony and a lot of words have been offered to the Committee. We adopted the amendment as offered by the sponsor of the bill and that is the amendment which you see before you. I don't think I am going to change anyone's mind for or against the bill. I have not had any great amount or significant amount of opposition to the bill other than in the hearing in Concord, the Governor's office indicated they felt it was unnecessary. I don't recollect any other particular opposition. With that, I will just urge my fellow Senators to adopt the amendments as offered by the Committee and pass the bill.

Sen. GREEN: I am looking at the section of the amendment dealing with the cities—if the governing body, being the Council, by a two-thirds vote approved the site plan for an oil refinery, would the third option by the 10% of the voters still be possible?

Sen. PORTER: This is a very good question but, in my opinion, even though two-thirds of the entire governing body of the city did vote to approve a site plan, thereafter should 10% of the registered voters request a referendum on the question because of its significance and the impact on the community of an oil refinery, they, in fact, could call for the referendum question to be answered.

Sen. JOHNSON: At the hearings I attended and the town meetings in our area, this bill received strong local approval and in checking around with city government, etc., there is some possible infringement on the rights of the Council, but the general feeling was that the refinery is such a tremendous issue it

simply overpowers everything and this is a pretty good way to handle it.

Sen. JACOBSON: Senator Porter, as I have read over the amendment, the effect of it is to bypass normal zoning amendment adoption procedures, is that not correct in respect to the refinery?

Sen. PORTER: I don't believe that is so. This is notwithstanding the provisions of any current zoning. This is over a separate issue. In other words, if there was an application made and zoning prohibited a oil refinery, that would be separate and individual. This would be just to determine the local intent.

Sen. JACOBSON: In RSA 31:63, you have the procedure for adopting amendments to the zoning ordinances. In there, there is a procedure for adopting it which calls for a series of hearings, planning board refinement after the first hearing; after the second hearing, editorial change and so forth and so on and it is placed on the ballot for adoption. Suppose a refinery wants to come into Town X and locate in what is now zoned residential. The proposition then is shall we have a refinery. If that proposition is adopted "Yes." will, in fact, that supersede the present zoning map which calls for residential?

Sen. PORTER: Not in my opinion.

Sen. LAMONTAGNE: Will this mean that if a refinery wanted to go into a town or city, you would have to have a referendum?

Sen. PORTER: Yes. It would say, for example, "an oil refinery shall not be located without a vote of approval of the majority of the voters in that town."

Sen. LAMONTAGNE: I rise in opposition because I personally feel a refinery is for the benefit of the whole State of New Hampshire and when such a matter is put on a referendum, it certainly hurts the whole State of New Hampshire. If we had to go to the cities and towns to a referendum in reference to trying to build a new highway, you would never get a piece of highway through and I don't care where you went because the towns would vote it down. And what would this do? It would put the State of New Hampshire going backwards. I think if we have an opportunity of getting a refinery to come to New Hampshire, I think this is a benefit for the whole State of New Hampshire

and it should be the business of us legislators who have been sent here to represent our people and we should vote on the question.

Sen. PRESTON: It might be said that this is an unnecessary piece of legislation. I think that today we are voting on the principle and this can be a benefit to those communities that might have weaker zoning laws. I think that what has happened—this project, which is a private development, it can't be compared with a public utility, at least at this stage—and it is of such a magnitude and its impact is so significant that it does deserve public consideration in any community in which it is going to be located. So, I am rising in favor of the amendment.

Sen. GREEN: I rise in support of the Committee report and the amendment. I do so with the understanding that in the Senate record it is understood that the people of a city would have the option of voting on the question of a refinery regardless of the vote by two-thirds of the City Council to permit a oil refinery in the community. I think a project of this magnitude the effect it will have not only on the community in which it is going to be located but the surrounding communities should be answered by the people who are going to be most affected. I do not believe that the governing body, whether it be the State, the City Council, should have the authority to have such an operation in its community without first hearing from the people of that community so affected. I do support the amendment.

Sen. FOLEY: Senator Porter's Committee on Resources and Environmental Control and the area Senators met in Portsmouth last week and had a hearing on HB 18. Well over 300 people appeared and the great majority favored HB 18 which actually is a bill for home rule in regard to site approval for oil refineries. I support the bill as amended and I urge all our Senators to pass it.

Sen. BRADLEY: I rise in support of the bill. I want to add for the purpose of the legislative history in answer to Senator Green's concern—it is clear to me in reading Section 2 of the bill that the referendum provisions of cities would override, whether it is favorable or unfavorable, the action of the City Council. In other words, I think it is quite clear from the language that, if the City Council were to approve the oil refinery and then the public disapproved it, it could not be built and vice versa; if the

City Council voted not to approve it and then the public voted to approve it, it could be built. I think that is quite clear from the last two sentences of II and III of the amendment.

Further, in answer to Senator Jacobson's question, I want to concur in Senator Porter's answer. Zoning, to the extent it exists in any town, still has to be complied with. Zoning is a separate question and the vote which is provided for in this bill is not going to change the zoning law in any way.

Thirdly, I would like to say that in response to the only argument which I have heard against the bill is that it is unnecessary and that is certainly an incorrect argument because the bill certainly is necessary in any town that has a weak zoning ordinance or has no zoning ordinance at all. If a town does not want zoning or does not want to adopt the Interim Emergency Zoning Measure or does not want to change its zoning—whatever the circumstances are—and it does not want an oil refinery, this gives them the ability to say no to the oil refinery without adopting a zoning law or without changing its zoning law. So, it does add something to the law.

Sen. NIXON: I speak in support of the Committee report and the amendment offered by the Committee. And I speak in support of HB 18. One of the things that has impressed me about the New Hampshire Senate since I have had the honor of being here since 1971 was the great deference that this Body affords to the wishes of local communities and local areas when they have a matter before us. I can think of no city which has probably received more consideration in respect to local home rule, if you will, or local wishes, than perhaps the City of Berlin, in large part due to the very able work of its distinguished representative in this Body. HB 18 does no more or less than to put this principle into legislation in respect to probably the most significant potential opportunity that has confronted New Hampshire and its citizens in my memory and in the memory of many of us. All it does is simply provide that no installation of the magnitude, complexity and the impact upon any community of an oil refinery can be imposed upon any particular community unless that community accords in the imposition. For that reason, I support the bill. And it should be recognized, I think, that we are not just talking about the Town of Durham. We are talking about, when we vote in favor of this bill and its amendment, the City of Berlin, the Town of New Boston, the City of Man-

chester, the City of Rochester, the towns and cities of every one of us here in this Body. Because the next time around it could be a statewide sewage treatment plant which might be a great thing for the state regardless of where it is located in a particular community but all of us would want our communities, if that were the projected site for the installation, to have an opportunity to say yes or no on the basis of what we had built and created and had for an environment for our children and ourselves and our towns. So, I say you can support HB 18 and in doing so you will be supporting, if you will, the principle of a oil refinery in the New England area being established on a mutually cooperative, agreeable basis and you will be supporting, as I do support, the principle of more energy facilities in New Hampshire provided that the means of bringing them about are in accord with our traditional democratic processes and in accord with the traditions in New Hampshire of home rule. And I hope I do not have to remind this Senate that this State and this country were founded upon the principle of people having an opportunity to participate and vote and be heard in the processes which affect their daily lives—taxation without representation; oil refineries without representation—the principle is the same; the position should be the same and, for these reasons, I ask the support of the Committee of HB 18 and the amendment and of all the traditions of New Hampshire which are involved in support of this legislation.

Sen. DOWNING: I rise in support of the Committee report. I might say I think it is unfortunate that oil refinery has been singled out in this matter as I feel quite strongly no community should be forced to accept *any* business that the people of that community don't want and don't feel particularly compatible with. I fully support the concept of a refinery locating in New Hampshire. I think it would be good for us. But I certainly would not like to see it in any community that did not want it.

#### ROLL CALL

Roll Call requested by Sen. Nixon. Seconded by Sen. Blaisdell.

Yeas: Sens. Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Nixon, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau, R. Smith, Sanborn, Brown, Johnson, Downing, Preston, Foley and Spanos.

Nays: Sens. Lamontagne, Ferdinando, Provost and Bossie.

Result: Yeas 20; Nays 4.

Adopted.

Sen. Sanborn moved adoption of an amendment.

Sen. SANBORN: I wanted to offer this amendment to the Committee but our schedule of hearings prevented me from appearing.

This amendment is very minor—it only changes two words in the bill. In each spot where the words “oil refinery” now appear, this amendment substitutes the words “industrial plant.” I feel that the present bill, while proclaiming Home Rule, is limited to just an existing problem. It does not cover the need fully. We are presently upset because of an oil refinery which may locate in New Hampshire. Personally, I favor such a move. However, I don’t want to see this or any industry forced on any single group of people. To listen to our counterparts on the other side of the wall in their sanctimonious mouthing of Home Rule makes me question legislative intent. The way we have forced added costs on communities for education, non-taxable parks, and other property and power grabs makes me wonder about Home Rule.

Six or seven years ago, if someone had stood up here and said that an oil refinery was going to locate in New Hampshire, you would have told him he was a candidate for Dr. Dykens or Major Wheelock’s funny farm. Yet today, it is a reality.

What is to prevent us from being called back to another Special Session—as an emergency—because a steel rolling mill desires to locate in Durham or Portsmouth? I am a country boy, but I have been around a bit. Personally I would rather live in the shadow of an oil refinery than in Gary, Indiana—and I might add that I have seen both the refinery areas of New Jersey and the soot blackened Gary, Indiana. I ask how many here have ever lived down wind of a chicken rendering works. Let me tell you it is the best way to go on a diet. This is a quick look at what can happen.

With my amendment, all industry is barred until the town approves. Shouldn’t you and I have just as much right to say that a scrap metal plant can be located next to us as an oil refinery?

Let us be consistent. Give us the freedom to choose our industry and stop just discriminating against oil refineries.

Sen. PRESTON: I am concerned with what constitutes an industrial plant facility. Would it be a small foundry that wanted to locate in the Town of Raymond? Would you suggest this industry go to a public referendum and vote?

Sen. SANBORN: I don't see why not.

Sen. PRESTON: Do you think in fact that the State Industrial Development Authority or the Selectmen or the small Industrial Authorities we have in some seacoast towns could be receptive in time or respond to an industry in time to site such a small industry that might be interested? Do you suggest we go to a referendum?

Sen. SANBORN: I see your point, Senator. But, how do we know? As I mentioned earlier. Have you ever lived down wind of a chicken rendering factory? It is a small industry. But, if you take one whiff of it, that is enough. I still say I should have the right to say whether I should have something next to me in my town or not—not just an oil refinery—I should have the right to speak on anything. Don't you believe that?

Sen. PRESTON: I live down wind on the shores of Hampton Beach and I hope we don't have any chicken farms or oil refineries down there, but I am for a selective type of industrial development that might fit into these towns and I would not want to discourage them by creating a spectacle or debacle like we have had with the oil refinery. Secondly, I think this would be a preventive measure to some pretty well established industrial siting laws that we have if they are not taken advantage of politically.

Sen. SANBORN: Senator Preston, in response to your remarks, I must say, I agree to a certain extent. But, any industry, small or large, coming into the town isn't going to come in overnight. Evidently this oil refinery—they tried to push down their throat in a short time. However, many, many towns do not have very strong zoning ordinances and this gives them a chance, at a regular or a special town meeting—and I am speaking of small towns, not the cities—it gives them a chance to say: "yes we want this industry"; "no we don't." I do think this is home rule to its purest.



Sen. BRADLEY: I am wondering how this will apply to any given town. Let's take a town where there are already a number of industrial plants. In such a town, if another plant wanted to locate there—would it take a referendum in order for the additional plant to come in?

Sen. SANBORN: I believe so. Under the explanation that was given earlier to this bill, I believe it would.

Sen. BRADLEY: It would take a referendum each time an additional plant was going to come in?

Sen. SANBORN: I think that would be only correct. It gives the town the chance to see what is coming in instead of having something forced down their throat.

Sen. BRADLEY: Are you entirely serious about this amendment?

Sen. SANBORN: I am absolutely serious about it.

Sen. PORTER: I am surprised when you brought in this proposed amendment with your cry for home rule and everything why you haven't also provided the moneys for the towns to pay for the referendum questions that will need to be taken. If you really believe in extending it, why didn't you carry it all the way?

Sen. SANBORN: I fail to follow your question in providing money for the referendum. I have, I think, carried through on this many times in the past when I have argued with some of the other Senators relative to forcing increased items on to the towns in the area of education, etc.

Sen. PORTER: Let me rephrase my question. Should the voters choose to have a referendum before the question of industrial siting in their town, there is a certain cost associated with this referendum to take the vote and call a special town meeting. Why haven't you included an appropriation in the bill to compensate them for this cost?

Sen. SANBORN: I don't believe, unless the town is in a rush and I don't think these things should be rushed until all the facts are out—the regular town meetings comes every March.

Sen. LAMONTAGNE: This is again another tool for people out of state coming into New Hampshire and purchasing

property, and becoming a resident of that area. Then these people from out of town will turn around and vote against it in a referendum, vote against any kind of an industry that a town would want to have—and I am talking about the people who have been paying taxes in the State of New Hampshire and have been in their towns for a long time. I have seen this happen in Chocorua. In Chocorua, there was 90% of the town people who were in favor of a truck lane near the Chocorua Lake. Everybody thought it was going to go through. There were 425 persons at the hearing and there was only 3 persons for it. The townspeople never showed up. I happened to have been at the store when these people had inquired how to do this and I had prepared a petition for them but when it came time for them to appear at the hearing, as I said, there were only 3. When I turned around and said to them: well, you people wanted to have this truck lane that the trucks have been getting stuck on that road because of a climb and, at the same time, it was very, very icy when the matter could have been very well corrected by having a truck lane. My friends, let me say this—the town passed another petition and allowing only the townspeople to vote and I want you to know that truck lane was built and, after it was built, then these people from out of town said well, this is a pretty good job, we should have approved the other side too. Now, if we adopt this amendment here, you are going to have out of staters—and we have a lot of them who are moving into this state—and they are taking control of some of these towns. And I certainly would not want them to take control of my town. And I am not ashamed to say publicly right here that in Berlin—yes, we have a smell but there is one thing that the townspeople in Berlin and Gorham know—that if they did not have that smell, the people would be out of work. And we have enough of them out of work today and certainly I would not want to vote for something again that possibly some people from out of town would be coming into the area, buying some of that property and then becoming a resident and then knocking out the wishes of the majority of its people who have been paying taxes for many years.

Sen. NIXON: I rise with some deference and would like to speak as a country boy from a smaller town than the distinguished representative of all country boys across the country, Senator Sanborn. I would suggest to the Senate that the reason the distinguished Senator from Deerfield had some difficulties

saying what he wanted to say on behalf of his amendment was that his tongue was in his cheek to some small degree, although he made a point and it is a good point.

But, comparing the common, ordinary, smelly industrial plant to an oil refinery with all of its potential satellite industries, all of its ramifications in respect to the environment, to the economy, to the population, schools, fire departments and the like, is like comparing the common ordinary small time New Boston Fair to that wonderous spectacle, the Deerfield Fair. The New Boston Fair has a couple of cows that Don Byam brings over; Steve Shultz brings a pig or two; there are some chickens; three or four little rides; and a couple of cotton candy outfits; and people come from as far away as two and three miles to enjoy the delights of a small country fair. It does not interfere with the economy, the environment, or anything else. It provides a small good time for a cheap price. Whereas, the Deerfield Fair congests traffic on 101, causes accidents and is a world wide attraction—and rightly so. It is probably the best fair in this part of the country, if not anywhere. But there is no comparison between the two any more than there is any comparison between a little industrial plant which will boost the economy and an oil refinery which may wreck an economy even though, as does Senator Sanborn, I favor an oil refinery in New Hampshire. I would suggest that the point that ought to be made is that in the case of even a principle like home rule, the wisdom of an ancient Greek philosopher—everything in moderation—even home rule, along with religion, sex, anything you want to name—everything in moderation. Home Rule, if carried out to the ultimate, as would this amendment as offered by Senator Sanborn, becomes ridiculous. It is a good principle when applied rightfully and properly with the proper limitations as in the case of an oil refinery upon New Hampshire's economy. But, when you extend it to such things as a common, ordinary, average industrial plant and the interference that would have with zoning laws and everything else, it becomes ridiculous—sublimely ridiculous. But, the point that Senator Sanborn made is a good point and I think his amendment makes it well—and that is let us not crash through the underbrush, carrying the banners of a principle that is good in itself to the ultimate extreme so that it becomes ridiculous. Let us apply that principle—the principle of Home Rule—to the extent that it is in accord with our desires and our aspirations and our traditions and let us cut that

principle off when it is attempted to be applied beyond the point of reason and that is what the principle would do in respect to HB 18—the amendment would carry it beyond reason. For that reason, with appreciation for Senator Sanborn's wisdom and, although he might deny it, his good humor today, I hope we will defeat this amendment.

Sen. GREEN: I would like to make some comments in objection to comments which were made by Senator Lamontagne. My reasoning with respect to the amendment are much like Senator Nixon's. However, there were some comments made about people from out of town etc. which bothered me. It was my understanding that we live in a free society and that when a person moves to New Hampshire and becomes a resident of this State, they have as much voice in that particular community's future. I do not consider people from out of New Hampshire, whether they are born here or not, as not being residents of that community in which they are living. I get rather disturbed when I hear comments like that made. I was born in New Hampshire; I am a resident of New Hampshire. But that doesn't mean that people coming into this State are not paying their fair share when they move into a community. They pay taxes just like the rest of us do and I object to the segregation of those who are so-called residents because they were born in New Hampshire and those who are residents because they moved to New Hampshire. In my opinion, they are both residents; they vote in that community; they pay taxes in that community and they have the right to their opinion there.

Amendment lost.      Ordered to Third Reading.

### SUSPENSION OF RULES

Sen. Nixon moved the Rules of the Senate be so far suspended as to permit introduction of a Committee Report not previously advertised in the Calendar on HB 5.

Sen. NIXON: The reason basically is to see if we can get the bills acted upon and sent over to the House so that the House can act upon them today, if at all possible, having in mind that tomorrow is the deadline for action by one body on bills which originated in the other.

So far as the merits of HB 5, if this Motion to Suspend is permitted by my fellow Senators, the merits have already been

voted upon and debated at length by this Body and I think it is time that we sent the bill, as we have acted upon it, over to the House for such action as the House deems appropriate under the circumstances, but most importantly that we do it now without having a second debate on the same issue.

Adopted.

(Sen. Porter in Chair)

## COMMITTEE REPORT

### HB 5

relative to the office of energy administrator and providing for said administrator to permit increases in gross weight for certain motor vehicles and a tolerance in overall length of certain motor vehicles. Ought to pass. Sen. Trowbridge for Finance.

Sen. TROWBRIDGE: Senate Finance, in line with Senator Nixon's remarks, made the point that the Senate has already made its determination on HB 5 and it had a \$5,000.00 appropriation. We are just reporting it for the routine to send it over to the House. At this time, there is no point in further debate.

Adopted.

Sen. Green moved adoption of an amendment.

Sen. GREEN: Unlike Senator Nixon and other members of the Senate Finance Committee, I did not feel the issue, at the time it was voted on last week, was debated to its fullest. I am confident that there is strong potential for this bill to be killed in the House since the Senate has seen fit to amend it the way it has. However, I think there are some things that should come to light as a result of Senator Lamontagne's amendment to HB 5.

The amendment which you have before you simply deletes Senator Lamontagne's amendment and brings the bill back to the original state in which we received it. I think there is an important part of this bill which relates to the Energy Administrator and the including of electrical energy as being important for that Administrator to have under his jurisdiction. I am concerned that the whole bill will be lost and there is a very important part of it—the first part of it—that should be passed as a law during this Special Session. Being aware that the bill is in jeopardy and being also aware that I am opposed strongly to the

amendment as offered by Senator Lamontagne, I would like to present some information to you which was not made available to this group for previous debate.

First of all, I have had an opportunity to have a conversation with Commissioner Whitaker. I have his concerns in writing, which I am willing to share with any member of the Senate. In his opinion—and he has said so in hearings and he supported SJR 3 which would study this whole issue—it is unrealistic to consider either the Energy Administrator or “with the consent of the Commissioner of Public Works and Highways” to really administer this piece of legislation as proposed by Senator Lamontagne’s amendment. A lot of figures were stated at the last debate, but the fact still remains that, if we are concerned about the cost to the taxpayers, there are number of bridges and roads in the State of New Hampshire that are going to deteriorate as a result of this added weight as suggested—even by permit. I read an article in the *Manchester Union* which I thought was rather interesting which referred to the Governor’s being overwhelmed and overjoyed at the passage of this particular amendment. It said in that particular article: “many of our states have already passed this type of emergency legislation. Also the Administration in Washington has sent similar legislation to Congress.” The interesting point, of course, is that he neglected to say that New Hampshire law already exceeds Federal proposals. Let me give you an idea of what I am talking about. Presently the Federal laws *on the best highways in the country*—the Interstate System; we are not talking about the State roads; we are talking about the best highways that are built in this country—the present load for single axle trucks is 18,000 pounds. The new proposal being submitted to Congress for their consideration is 20,000 pounds. New Hampshire *already* allows 22,400 pounds. We are not only above what the Federal law is for Interstate roads *now*, but the new proposals being submitted to the Congress are less than New Hampshire law is now. When you talk about a tandem truck, the present law for Federal highways is 32,000 pounds. The recommendation to Congress will be for 34,000 pounds. New Hampshire right now allows 36,000 pounds and we are asking for more. I heard a lot of talk about the consumer having to pay the cost of the extra amount being charged them by the trucking industry. Who is going to pay the cost of these things?

Now the issue of safety, which I think is where my main

concern was when I first looked into this matter. It is evident in some studies that have been done by the U.S. Department of Transportation and by the National Highway Traffic Safety Administration and Department of Transportation that there is real concern about the ability, based on the Federal amounts of load they are allowing of meeting safety standards on the basis of braking and stopping and their inability to control the truck when it is going a certain speed. We have talked about an energy crisis. We have talked about it in terms of how fast the trucks can go. We have talked about it in terms of availability of gas. We have talked about it in terms of the price of gas. Nobody has identified what we are talking about in terms of the whole issue of energy crisis. It has been my feeling since debate started on this particular amendment that the energy crisis is just a way of getting at something which the people in this Senate have tried to pass for other reasons—the energy crisis has only become a tool to their needs—and that is to increase the weights of trucks on our highways. These reports are available to any of you who would like to look at them—the facts, so far as safety is concerned. A report by the National Highway Traffic Safety Administration in reference to safety of trucks indicates at the present load they are able to carry, they had some concern that before additional weights were allowed the following be considered prior to that new legislation: better braking and hill climbing performance; standards for improved coupling devices and control of jack-knifing techniques; standards for rear underride guards to prevent smaller vehicles being demolished in collisions with larger trucks; standards to control splash and spray in connection with wet roads; and so on and so forth and there are many amendments. I am not going to take your time with all of them. But the fact is, if you do your research and you look into this thing, you will find that it should not be an emotional debate or an emotional vote. It should be based on logic and common sense and I am convinced that the vote that was taken the other day, based on the pressure of the moment, whatever those pressures were or whatever political deals had been made, was the wrong thing to do for the State of New Hampshire and I hate to see the Senate not have another opportunity to reconsider this before we send it over to the House because I think the House is fully aware of all these matters and they will, in their wisdom, do what they think is right. We, in our wisdom, should do what we think is right. Like Senator Ferdinando said

earlier, two wrongs do not make a right and I think if you want to correct this situation, you have a chance to do it now.

Sen. CLAVEAU: You talk about the safety factors. Do you know what the ratio is of accidents of trucks versus cars—the ratio in comparison to the number of vehicles on the highway?

Sen. GREEN: I am fully aware that the trucking industry's safety record is excellent. But I am also aware that rating is excellent based on the limits under which they are now operating.

Sen. CLAVEAU: Do you have any information at all on the number of accidents due to overweight on trucks, other than collisions with other vehicles?

Sen. GREEN: These reports say that the reason the overweight should not be increased is because trucks are not built to carry this weight and as far as statistics to say if they are overweight, they have more accidents, most of these figures are projected that the trucks in most cases are not overweight.

Sen. CLAVEAU: Who says this?

Sen. GREEN: These reports I am drawing from are from the U.S. Department of Transportation, and the National Highway Safety Traffic Safety Administration. These are the reports I have gathered the data from and these are the reports and the findings that they have. I have other reports that show the same thing and, in each case, every report comes up with the same final recommendation—that trucks should not be increased in weight for two basic reasons: the safety reason and the fact that the roads and/or bridges are not constructed for that kind of weight.

Sen. FOLEY: I think you alluded to the fact that before we voted some political deals were made. Are you trying to say that everyone who voted in favor of that bill had made a political deal?

Sen. GREEN: No, I am not.

Sen. LAMONTAGNE: I personally feel that some of these remarks are similar to the ones I have heard before from AAA. I want you to know I am not an attorney but I have worked with these hands all my life and I worked with these hands here and I have done the same as what some of these boys are doing today. Thank God, I am not in the same business as they are. I



got out of it because I could not make a profit. But these hands here have handled the heaviest loads in the State of New Hampshire. Back in 1947 when I owned a piece of equipment and I have hauled heavy loads as much as 65 tons to 80 tons and that 80 tons was only on a short haul. But I have hauled 65 tons from the peak of New Hampshire to the southern part of the State. I have hauled pulp from 2 o'clock in the morning till 11 o'clock at night. I have worked all over these bridges that they are talking about that have not been repaired for at least 20 to 25 years. These trucks have been hauling these weights all these years. Fortunately enough and lucky enough, the forest products in the year of 1973, with your help, you have enacted the law on certain routes and with the help of the Commissioner Bob Whitaker we are hauling forest products for 90,000 pounds on these bridges they claim are unsafe—90,000 pounds on some of these culverts they talk and know so much about that they can't stand the load. Let me ask you this. If forest products can haul 90,000 pounds, what is the difference in having some other type of cargo on the same trucks or on some other trucks with at least 80,000 pounds as has been requested on 5 axles? What difference is it? It's weight—whether it is forest products or any other type of cargo. Another thing in this bill, it is asking for good common sense until we have a study. Good common sense, but somehow good common sense can't be used by some of the enforcing officers and, therefore, I have asked for a 12" tolerance on length. Why? Because some of these truckers have been taken into court with 3" over length—3" over length. Wouldn't you consider this to be lack of using good common sense? Yes. But in order to straighten this out all we have to do is enact it into the law. Lack of good common sense was enacted in the 1973 session and, if you remember, I gave you a demonstration on  $\frac{3}{8}$  chains and I gave you a demonstration on cables. When the cable was a lot stronger than the  $\frac{3}{8}$  chain but still it was lack of using good common sense because the law didn't say a cable some of these truckers were taken into court. And I will name you one of them—Mr. Decato. You know how many court cases he had? He had as many as 16 because of lack of using good common sense. But since we have straightened out and enacted into the law cables we have no more problems. I am not going to take any more of your time because I would only have to repeat what I have said on this floor before, but I hope you will defeat this amendment and give this bill the opportunity to go into the House as it was

agreed. I have promised Senator Nixon I would be in favor of a hearing and in order for it to have a fair hearing tomorrow, it is necessary for this bill to go into the House and to go into the House now. I only hope that the 18 votes I had that you will still stay with the truckers and help them and, at the same time, try to avoid in this State a truck strike that might happen. If there is a truck strike, you can be sure that each and every one of you will have to come back to another special session and that is not a threat; it is a fact.

### PARLIAMENTARY INQUIRY

Sen. JACOBSON: Was a hearing held on this bill when it went to Finance?

CHAIR: The Chair would say no, based on advice of a member of the Finance Committee.

Sen. JACOBSON: Under what parliamentary procedure if we pass this bill as amended, would a hearing be possible?

CHAIR: The Chair would have to state his advice is that the only procedure which would be brought into play would be that should the House non-concur, the Committee of Conference established would hold a hearing.

Sen. JACOBSON: Does the Chair know of any precedent where the Committee of Conference has held a public hearing?

CHAIR: The Chair knows of none.

Sen. CLAVEAU: I rise in opposition to the pending motion. I don't think I would like to discuss the merits of weights on trucks. I think that we talked about it before. But I would like to talk in reference to truck safety. Senator Green agreed with me that the truck record is excellent. I know the trucking industry is very, very concerned with safety. The manufacturers are concerned with safety. The equipment is always overrated, above what they call the gross vehicle weight. The trucking companies are concerned because it is difficult getting insurance if you don't have safe trucks, if you have people involved in accidents. Nader, who has criticized the automobile industry for not being safe enough on the highway in many respects, has never criticized the trucking industry. In fact, he has praised the trucking industry. I think the statements made that the added weight would cause more accidents certainly is not so and, in reference

to Mr. Whitaker, as Chairman of Public Works and Transportation, if he had any feeling about the bill, it would seem to me he would have had the courtesy to get in touch with me. I stated in the last session on this bill that most of the heavy trucking is done from terminal to terminal and they usually operate during the night. Believe me, there has been a tremendous amount of overloading over the years and if our bridges were unsafe for 80,000 pounds we are asking here, they would have collapsed a long time ago. And, as Senator Lamontagne has stated, trucks with 90,000 pounds have gone over these bridges for many years and we have had no bridge problem. I think all of this is stimulated by AAA against trucks. They don't want to see the trucks on the highway anyway. I think if we are going to help the emergency along and to help the trucking industry, I think we should move this bill along to the House and let the House make the final decision.

Sen. GREEN: Just a couple of comments. There are a couple of clarifications I would like to make. One is, after I had time to think about Senator Foley's question, I think it deserves a more explicit answer. At the time of the discussion around Senator Lamontagne's amendment, the comment was made on the floor that he did whatever he had to do with his amendment to get the necessary votes and that is what I was referring to, Senator Foley. In terms of Commissioner Whitaker, I want it to be very clearly understood that *I* called him. He did not get in touch with me. I was concerned and I made the inquiry. I want that to be very clear.

A couple of comments were made by Senator Lamontagne to be clarified also, I think. In the case where permits are allowed for overloading for the trucking industry relating to logging, it is my understanding that they are limited and they are allowed only on certain routes, such as Routes 16 and 3. This is the information that I have.

And before I sit down, I would like to make it very clear again. I am not against the small trucking industry *per se*. I think that they have been made the scapegoat in this issue. If they have a problem with not getting enough money to deliver their goods, then it would seem to me that a rate change would be just as likely as any other business. There are many businesses in this State that are losing money because of this inflation and they must either change their charges or change their rates in

order to make it up. In the final analysis, no matter how you do it, the consumer is going to lose. What I am concerned about is a little money is being lost, yes. But when you start being concerned about the lives that are going to be jeopardized, I think you are talking about a different ballgame.

Sen. Provost moved the previous question.

Adopted.

### ROLL CALL

Roll Call requested by Sen. Green. Seconded by Sen. Lamontagne.

Yeas: Sens. S. Smith, Green, Jacobson, Trowbridge and Downing.

Nays: Sens. Lamontagne, Poulsen, Gardner, Bradley, Spanos, Nixon, Blaisdell, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Preston and Foley.

Result: Yeas 5; Nays 18.

Amendment lost.      Ordered to Third Reading.

### SUSPENSION OF RULES

Sen. Nixon moved the Rules of the Senate be so far suspended as to place on Third Reading and Final Passage at this time: SB 31, HB 3, HB 5, HB 11, HB 17, HB 18, HB 27, HB 30 and HB 35.

Adopted.

#### Third Reading and Final Passage

SB 31, authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each such city by the issue of revenue bonds.

HB 3, relative to establishment of a food stamp program and making an appropriation therefor.

HB 5, relative to the office of energy administrator and providing for said administrator to permit increases in gross weight for certain motor vehicles and a tolerance in overall length of certain motor vehicles.

HB 11, to increase the salaries of classified employees and employees of the university system and the New Hampshire Network and providing differential pay to classified prison employees and correctional psychiatric aides and providing nurses' reclassification at the New Hampshire Hospital and Laconia State School and making appropriations therefor.

HB 17, increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor.

HB 18, requiring local option for siting of oil refineries.

HB 27, relative to amending certain provisions of the Off Highway Recreational Vehicle Law, RSA 269-C.

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

HB 35, providing for twenty years retirement for members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor.

Adopted.

## RECONSIDERATION

Sen. Lamontagne moved Reconsideration of HB 5.

Motion lost.

## SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended as to place HB 2 on Third Reading and Final Passage at this time.

Sen. TROWBRIDGE: This is the capital budget. We have had considerable discussion about the possibility of further amending HB 2 and I would like to make a statement now for the record as to the kind of thing I see for the Mt. Sunapee portion of HB 2; namely, that in the Bill there is \$15,000.00 for the feasibility survey which should be done by June or July of this year. At that time, the Fiscal Committee would hear the feasibility study and I would make a commitment at this time to

make sure that there will be cross-examination of that feasibility study by interested parties, presumably down near the Mt. Sunapee area.

Secondly, in presuming the feasibility study is positive, then the \$80,000.00 of engineering is already in the bill which should be done so that a special bill can be drawn in November or December for introduction early in the session for the installation of the snow-making equipment and that could go through early in the session and, therefore, the installation could take place the following summer so there would be no loss of 3 winters here, which is the fear of the sponsors. But in the second winter, if all goes well on the study, the snow-making equipment could be up and ready by the 1975-76 skiing season. So I think that we have allayed the fears of the sponsor if there is any question of trying to avoid the issue and lose the 3 seasons and I am putting that on the record at this time.

I hope you will vote to suspend the rules so we can get it over to the House which I understand is prepared to concur with the Senate amendments to the Capital Budget and, therefore, the bill will go on quicker.

Sen. SPANOS: I would like to speak to the motion to suspend the rules. I want to take this opportunity to tell the Senate that we did have meetings with members of the House of Representatives concerning this matter—Senator Jacobson, myself, Senator Trowbridge, Senator Gardner and others. Although we feel the vehicle probably would best serve Mt. Sunapee were we to pass the measure as I wished to have it amended, still there are practical considerations that have to be taken into account: i.e., would the House of Representatives, the Committee of Conference accept the amendment even if we adopted it. But I am satisfied after listening to the House leadership and the Senate leadership that every effort will be made not to delay the feasibility study, the engineering plan the eventual initiation of legislation in the next session of the Legislature to have this park on its way toward installation if such the case may be. What I have always been worried about is we have been sitting on this for so long saying that this would be done and this would not be done and nothing has ever been done for that area, for that Mt. Sunapee State Park in regard to snow-making. I think the House is getting the message; DRED is getting the message and everybody concerned is getting the message that we in the Legislature are

interested in expediting this thing and making sure it becomes a reality without road blocks being put in there by DRED or anyone else and I think this is the important part and this is the concessions that we have received and I hope that all those in power, legislative, executive or otherwise, will take note of what has transpired here in order to send this Capital Budget to the House for its consideration and passage.

Sen. JACOBSON: I want to rise in support of the procedure which has been laid down by the Chairman of the Finance Committee. I think if that procedure is followed, as he has delineated it, we will then achieve what I think is a satisfactory solution to the problem of Mt. Sunapee. So that, with that kind of assurance, I am willing to go along with the proposal as proposed by the Chairman of the Finance Committee and I would also like to say that we have come two important steps that we did not have before and I want to extend my thanks to the Senate Finance Chairman for those steps that we have achieved.

Sen. LAMONTAGNE: I too rise in support of the motion to suspend the rules and at the same time send HB 2 to the House. At the same time, there is one thing that I did not say to the Chairman of the Finance Committee and the Finance Committee that, in reference to the problem of the vocational school in Berlin—and income is always something interesting for the Finance Committee. The Vocational School in Berlin has over-exceeded its \$19,000.00 estimation by \$2,578.00 and by April 1, it will exceed that. Therefore, the cafeteria is doing a very good job as far as bringing in revenue.

Adopted.

### Third Reading and Final Passage

HB 2, making appropriations for capital improvements.

Adopted.

(Sen. Jacobson in Chair)

### COMMITTEE REPORTS

#### HB 33

relative to the Winnepesaukee River Basin Control; and providing for continuation of the study committee on the water supply and pollution control commission. Ought to pass with

amendment. Sen. Porter for Resources and Environmental Control.

### AMENDMENT

Amend the laws of 1973, chapter 334, as inserted by section 4 of the bill, by striking out in line 10 after the word "senators" the following "from the senate resources and environmental control committee" and inserting in place thereof the following (, two from the senate resources and environmental control committee, and one from the senate finance committee) , so that said paragraph as amended shall read as follows:

That there is hereby established a special legislative committee to study and report on the existing program and future needs of the water supply and pollution control commission. The committee shall review the efficiency, economy and effectiveness of present procedures, policies and programs of the commission with respect to the handling of the duties and functions assigned to it. The committee shall make recommendation for any additional safeguards, personnel and other measures which it deems necessary in order that the commission may carry out its present and anticipated future responsibilities. Said committee shall consist of thirteen members appointed as follows: three senators, two from the senate resources and environmental control committee, and one from the senate finance committee appointed by the president of the senate, six representatives of the house committee on resources, recreation and development, and one representative of the house appropriations committee appointed by the speaker of the house and three members representing the general public appointed by the governor. The committee shall elect one of its members as chairman. The committee shall report its findings and recommendations to the general court on or before January 15, 1975. The committee shall have full power and authority to require from the several departments, agencies, and officials of the state and its political subdivisions, such data, information and assistance as it may deem necessary or desirable for the purposes of this study. The water supply and pollution control commission shall provide the special committee with such of its rules, regulations and procedures as the committee may request, together with the justification thereof.



Amend section 5 of the bill by striking out same and inserting in place thereof the following:

5 Effective Date.

I. RSA 149-G:6, II, as inserted by section 2 of the act shall take effect on July 30, 1973.

II. The remainder of this act shall take effect upon its passage.

Adopted.

Sen. PORTER: There is an error in one of the amendments. A subsequent amendment which I will offer will correct the error which is the date in there. It is July 30 and it should have been June 30 and I did not catch this.

The amendments to the bill change the makeup of the Interim Study Committee which the House added at the House Committee on Resources. What I have done here, at their request and suggestion, is change the makeup of the Senate Committee going from 3 Senators from the Resource Committee down to 2 and adding one from Senate Finance. Frankly, the House Committee will non-concur with this amendment and change the Committee structure somewhat more. They are not happy with the particular Committee structure.

The error I talked about is in the effective date and we are dealing with practically the whole bill is dealing with administrative and control changes to HB 50 as you may recall of some two years ago. We are dealing with the Winnepesaukee River Basin Commission which is responsible for the construction and development of the entire sewage treatment facilities for Lake Winnisquam, Lake Winnepesaukee down to Franklin. The changes which have been made are administrative changes. They are concurred in by the member communities and they have opted for the very changes which have been proposed herein. There was no opposition to the bill. Everybody was all in accord with these changes and the Committee urges its adoption.

Sen. GARDNER: Is it true that Alton no longer wishes to be a part of this?

Sen. PORTER: That is true. In the original bill, Alton

was included and they asked that they be not included and they have been withdrawn.

Sen. GARDNER: And, aren't they prepaying their costs now instead of as written in the original bill.

Sen. PORTER: They are. The towns are prepaying and prefinancing the thing.

Sen. GARDNER: From the very beginning, whether they are hooked on or not?

Sen. PORTER: Yes.

Sen. Porter moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

relative to the Winnepesaukee River Basin Control;  
providing for continuation of the study committee on  
water supply and pollution control commission;  
and establishing an interim committee to study floodplains.

Amend the bill by striking out section 5 of same and inserting in place thereof the following:

5 Floodplains Study Committee Established. There is hereby established an interim committee to study floodplains and to recommend legislation to protect and to regulate the use of such floodplains. The committee shall be composed of three members of the house appointed by the speaker, three members of the senate appointed by the president, and three members of the public appointed by the governor. All state agencies having relevant data shall cooperate with the committee in performance of its duties, and the office of state planning will serve as staff to the committee as needed. The committee shall report its findings and recommend legislation, if any, to the governor, the speaker of the house, and the president of the senate, within fourteen days after the convening of the 1975 session of the general court.

6 Effective Date.

I. RSA 149-G:6, II, as inserted by section 2 of the act shall take effect on June 30, 1973.

II. The remainder of this act shall take effect upon its passage.

Sen. PORTER: I did not offer this amendment directly as a Committee amendment. I wanted to do it from the floor so that all members of the Senate would be well aware of this amendment and able to judge for themselves whether it is germane to this particular bill. I did ask the question during the hearing of the sponsor whether or not they thought it was germane and there was no controversy. They felt if the Senate voted for it, it would in fact make it germane. It certainly is as germane as energy is to truck length and widths.

My amendment does two things. The first one corrects the error in the bill which we have just passed and, frankly, whether my amendment passes or not, it will be non-concurred with in the House and that error can be corrected. I will not deceive this body by suggesting that this amendment has to be adopted to correct the change in date.

My amendment calls for the continuation of an Interim Floodplain Committee. As you may recall, two years ago an Interim Floodplain Commission—Commission at that time—was established and we reviewed 21½% of the total State land and had hearings throughout the State and reviewed what should be done relative to floodplains as far as legislation, seeking insurance, urging local communities to adopt local floodplain zoning and also the Committee brought in a bill to the Legislature last year. The bill was rejected by the Senate. It was killed and put away. However, the Commission was unable to continue its operation, continue its review of the necessity for adequate floodplain controls and bring this issue out before the public. For this reason, I reestablish through this amendment the Interim Floodplain Commission requiring a report shortly into the next session. The Commission will be 3 members of the House; 3 members of the Senate appointed by the Speaker and President respectively and 3 members to be appointed from the public by the Governor. I would urge that you consider the past season where we had a high degree of floods. There is still some work that should be done on this and I think a dedicated committee working toward the ends of adequate floodplain legislation

should be involved in the problem. I would ask your endorsement of this amendment.

Adopted.      Ordered to third reading.  
(Senate President in Chair)

## HOUSE MESSAGES

### HOUSE CONCURRENCE

SCR 3, relative to school safety patrol.

### HOUSE CONCURRENCE IN SENATE AMENDMENT

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states, permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

### HOUSE NON-CONCURRENCE

SB 5, providing that a person cannot be denied unemployment compensation benefits if he refuses a job too distant from his home.

SB 29, exempting enterprises selling spirits and wines to the state of New Hampshire from the business profits tax.

## RESOLUTION

Sens. Lamontagne, S. Smith, Bradley, Green, Jacobson, Spanos, Nixon, Blaisdell, Claveau, R. Smith, Johnson, Downing, Preston and Foley moved adoption of the following Resolution:

### SENATE RESOLUTION

*Whereas*, one of every eleven people in New Hampshire lives in poverty, according to U. S. census figures; and

*Whereas*, over one third of New Hampshire's elderly receive income below poverty levels; and

*Whereas*, there is ample evidence children of low-income families will remain in poverty; and

*Whereas*, it is estimated every low-income person costs the taxpayers \$150,000 during his or her lifetime; and

*Whereas*, poverty cannot be eliminated by handing out money or surplus food but only by truly helping people to help themselves; and

*Whereas*, New Hampshire's locally-controlled Community Action Agencies have been an efficient and effective means of breaking the "cycle of poverty", as set forth in the booklet "Poverty in New Hampshire", written by a department of the Governor's Office;

*Therefore*, in the belief it is both fiscally sound and more humanitarian to attack the causes of poverty than merely to dole out welfare, *Be It Resolved*, That the New Hampshire Senate respectfully urges Congress to enact, and the President to sign, an extension of the Economic Opportunity Act, with adequate funding, so that our state's Community Action Agencies may continue their work.

*Be It Further Resolved*, that copies of this resolution be sent by the Secretary of State to Senators Cotton and McIntyre, Congressmen Cleveland and Wyman and President Richard Nixon.

### SPECIAL ORDER

Sen. Spanos moved the foregoing Resolution be made a Special Order of Business for Wednesday, March 27, at 1:01 p.m

Adopted.

### SPECIAL ORDER OF BUSINESS

#### COMMITTEE REPORT

#### HB 29

relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions.

Ought to pass. Sen. Green for Education.

Sen. GREEN: HB 29 is a bill relating to handicapped persons. It has basically four parts to it. The first 3 parts deal with

the clarification that became necessary as a result of us enacting SB 76 during the regular session of the Legislature.

The first section deals with the schooling of handicapped children who are deaf and talks about a school district may pay costs other than the amount specified. In the law as it presently stands, there is an interpretation problem and the districts question whether or not they have to pay, or can they pay, I guess, any more than what the State average is. And this is kind of unclear in the present law. This clarifies that and says that basically a school district may pay costs other than the amount specified in this section when, in the judgment of the school board, the circumstances warrant it. It does allow local school districts to pay more than what the law says they have to pay, which is the State per pupil cost average figure.

Secondly, the bill relates to an appropriation that we made during the regular session which was \$250,000.00 per year or \$500,000.00 for the biennium. At that point in time we passed a law and you will recall the situation—the original bill had in it \$1.8 million. With that kind of money in it, we had language in there that said “distribution to school districts shall be prorated” which meant whoever was eligible, those who were on the rolls at that point in time and those new ones who came later—however many there were—it would be prorated and that the State would be responsible only up to 20% of that amount on a prorated basis. This part of the bill allows the Department of Education to determine priorities in terms of which one of the handicapped persons are the most severely handicapped.

The third part of the bill relates to defining more clearly the definition of physically handicapped, intellectually handicapped, emotionally handicapped and handicapped child and changes it every place in the law where it relates to “child” to “person.” It also brings it in line with the person up to 21 years of age. It clarifies that because when we passed the age of maturity bill there was a question of whether or not that responsibility was only to 18. This clarifies it that it is still age 21.

An amendment to the bill, placed on it by the House, relates to educational and other expenses of handicapped persons who are in a public institution and makes these handicapped persons in these institutions eligible for up to the elementary

per pupil cost so the District is still liable for that even though they are in an institution.

Those are the basic areas of the bill.

Adopted.

Sen. Downing moved adoption of the following amendment.

### AMENDMENT

Amend the bill by striking out section 7 of same and inserting in place thereof the following:

7 For Emotionally Handicapped Children for Whom Department of Education Made a Tentative Commitment; Appropriation. There is hereby appropriated the sum of eighty-four thousand dollars for the fiscal year ending June 30, 1974, to be expended by the department of education pursuant to the laws of 1973, Chapter 588, to pay the parents or guardians the twenty percent of the tuition costs for certain emotionally handicapped children who were approved as recipients by said department for tuition assistance for the school year commencing in September 1973. The governor is authorized to draw his warrant for said sum out of any moneys in the treasury not otherwise appropriated.

8 Effective Date.

I. Sections 1, 2, 3, 4 and 7 of this act shall take effect upon passage.

II. Sections 5 and 6 of this act shall take effect July 1, 1974.

Sen. DOWNING: The amendment would merely add one more section to the bill. It would not alter the effect of HB 29 in its present form as explained by Senator Green. It would add one section independent of it that would provide that the sum of \$84,000.00 for the fiscal year ending June 30, 1974 be expended by the Department of Education to pay parents or guardians 20% tuition costs for certain emotionally handicapped—it stresses emotionally handicapped children—who are approved as recipients by said Department for tuition assistance for the school year commencing in September, 1973.

When we passed SB 76 last session, people were advised

they were going to receive certain tuition help this year—emotionally handicapped children, in particular, who were not covered under handicapped aid before. They were told because of the small amount of funding they would only be helped to the tune of 20% of the tuition costs. When we pass HB 29, as it is before us now, those people are not going to get that 20% aid and this \$84,000.00 will see that they do. They are not going to know except for one or two that they are not going to get the aid until after we pass HB 29 and it is going to be too late to do anything about it. I think in all fairness a commitment has been made for funding, we should fund it and it is for one year only and in January we can discuss again in the regular session as to what should be done—whether it should be continued or improved upon or what. This will take care of the school year beginning last September. People have already committed themselves and I urge your support.

Sen. GREEN: I would like to rise in support of Senator Downing's amendment. I do so for a couple of reasons. When we passed SB 76, what we in essence did—the result was us cutting the money back from the bill when it originally started. If we had kept the money in, it would have been all right, but we did not for whatever reasons were pertinent at that point in time. What we did was we said the money would be prorated. We had a lot of handicapped people—youngsters mainly—who were on the rolls, who were getting the total amount and some of that amounted up to \$7,000.00 when they were going to Crotched Mountain, etc. When we found out what money was available and the Department did what the bill said—to prorate it—it cut 80% of the aid to these people who had already been identified as priority people who needed the assistance and opened the door to anybody else and they all got 20%. In that situation, the Department said to a lot of people that they had 20% coming but, as a result of the chaos we caused by people who had their funding cut, some Senators, myself included, went to the Department and said, hold on here. These people are on the priority list. We don't believe that their funds for their youngsters in these institutions should be changed. And it left a lot of anxieties, both for the Department, for the parents and for us as legislators. So, what happened is, as I understand it now, there were other people who were told they would receive 20% but rather than to cut the people who were already being funded, they had made a commitment and they don't have, in



my opinion, the money to meet the commitment. As I look at the list—I have a list here of those people who are involved and from what District—and it is apparent to me in looking at this that most of the Senators have people in their District who have had a commitment from the State Department of Education that they would pay up to 20% which they are not able to do and, it doesn't matter what District you refer to, we have a number of people here and I don't want to go down the list, but the fact remains that the total amount from all of our Districts amounts to \$421,625.00 which is the total amount of which the Department on the prorated basis only committed themselves to 20% of that which is the amount of money which Senator Downing is requesting in his amendment—the \$84,000.00. It is for one year. The commitment has been made and, if we can see it as our responsibility to fill this commitment and make it a priority. I am convinced that we in the Senate Finance can find the money if this Body so desires.

Sen. TROWBRIDGE: I am not going to speak against the amendment, but I think it is important to realize that if the Department of Education had wanted to handle this thing properly they would have had no difficulty doing so. Senator Green and Senator Downing believe that somehow our action bound the Department of Education into a tough situation. I think they forget that SB 76 was an extra \$250,000.00 for special education in which we said that we would pay the extra above the average daily costs on tuition. However, in the budget—the reason we cut the funds in the bill was the budget carried \$1,900,000.00 for special education; \$700,000.00 in each year for tuition payments which are not related to the \$250,000.00 in SB 76 and then carved out \$450,000.00 each year for local school district aid for special education. So that the Department had at least \$900,000.00 more for special education out of the combination of SB 76 and the budget than it ever had before. For it then to interpret SB 76 meaning that they had to prorate back everybody they had formerly been supporting through the budget, I think was an absolute nimcompoop decision. However, they made it and I don't deny what Senator Green is saying. But I hope you don't get me wrong in that the way it has been handled there is no question that Senator Green speaks the truth. However, it did not have to be handled that way. They could have drawn into the tuition payments \$700,000.00 each year and supported the previously supported children and there would

have been no problem. So, I am a little bit annoyed by the whole situation because I think a lot of parents have had a lot of hardship totally unnecessarily.

Sen. GREEN: I think in terms of the figures Senator Trowbridge has given you they are accurate. The difference is that the money in the budget was categorized for the first time. We had never identified in the budget, to my knowledge, a section for special programs at the local district level. The amount in the budget for tuition payments of \$1.4 million is less than what was before for tuition payments. What I am saying is for tuition payments in terms of what was categorized there was enough only to meet the obligations the Department had at that point in time. The \$250,000.00 was over and above that obligation and that money had to be prorated. So, in order to get all those people who were on those rolls who needed tuition payments in terms of the priority list that had been established, they needed the \$1.4 million plus some of the \$250,000.00 each year in SB 76. They could not, the way we passed the budget, deal with the \$800,000.00 which was special for programs at the local level which was a different ball game when you start categorizing the money.

Sen. TROWBRIDGE: Don't you agree that previously the Department had been serving these people with a total appropriation for the biennium of about \$1.7 million?

Sen. GREEN: That is correct.

Sen. TROWBRIDGE: The combination of SB 76 of \$500,000.00 and the budget at \$1.4 million added to \$1.9 million total appropriation—would it not be, you would think, possible if you had \$200,000.00 more for special education and none of that having to be used for local district aid—none of it whereas before the \$1.7 million was used for both purposes—wouldn't you think it conceivable for a Department working with a budget which has been increased substantially to not have to prorate the prior people out of the small one—the \$500,000.00 one—when they could have taken the \$1.4 million and used that to support all of these previous people?

Sen. GREEN: I believe I am in basic agreement with you except for one point. That is, that with the money they had prior to this legislation and last year's budget, if you took a look at how the money was used, it was almost 99% used for tuition. There was very little going to local districts.

Sen. S. SMITH: I rise in favor of the pending motion of Senator Downing. I think the argument so far has been well expressed. In addition, however, one of the big problems which we have had in this whole area has been that the Department has put money more on an emergency basis into tuition payments and has not, under the previous budget system, put their money into the development of local programs which in the long run would cost the State a lot less money to educate the children. I think the combination of things such as the reduction in the appropriation in this specific category, plus the fact that we struck out the section of the law allowing school districts to pay in addition and that we have put in the section on proration has made it a very difficult situation. But I think this bill would resolve the issue and with Senator Downing's amendment will take care of commitments which were made.

Adopted.

#### SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended so as to dispense with referral of HB 29 to the Finance Committee.

Adopted.      Ordered to Third Reading.

Sen. Blaisdell recorded in favor of HB 29.

#### SPECIAL ORDER OF BUSINESS

##### Second Reading

HB 32, relative to the commission and taxes on pari-mutuel pools at dog tracks.

Sen. Porter moved adoption of an amendment.

Sen. PORTER: To review quickly my amendment, I would like to state two or three things. One, I passed out a series of papers dealing with the breakage or the division of the commission or take of the track based on HB 32 amended version as it came from the House, a graph which shows the amended version versus the current revenue structure and also shows the amended version which I offer. In addition, I have passed out a paper which was provided to me by Attorney Millimet who, I believe, is the attorney representing the dog racing interests; at least he was a lobbyist here a couple of years ago for them.

I have talked with many of the Senators. I don't know that I have to say too much about this amendment except it provides a fair treatment of the State above the \$200,000.00 daily take. I think it is a more fair representation. I have talked with several members of the House as to why this bill came out of the House in this manner and many of them were very, very surprised that the bill did come over to the Senate in that shape, specifically members of the Ways and Means Committee. It was indicated that possibly somebody might have made an arithmetical error. Senator Green wishes to address this amendment, I know. He has had the numbering checked out and I think he will confirm what I suggested to the Senate last week which is that the higher level of take—above \$200,000.00, the State tends to lose money over the take which it would get. I have simply modified the bill so that above \$200,000.00 it is 10 and 8 all the way across from then on out. In researching the bill, I find that New Hampshire has today, with our current law, one of the best breakage division of the resources and the take of any other state. Massachusetts is not as good as New Hampshire. As far as the breakage, it is interesting to know that in the bill, half goes to the Track and half to the State of New Hampshire. In many of the other states, it goes as for an example in Arizona, Colorado, Florida—all of the breakage goes to the state and in one state even, the funding in an environmental bill calls for sire stakes with their breakage. With that, I will urge the Senate to adopt the amendment I offered. It possibly might mean more work, but I understand that the members of the House Ways and Means would generally concur in my proposed amendment.

CHAIR: The Chair would state that last Wednesday it was the Chair that requested Senator Porter to do the research which led to the amendment which he offered in respect to breakage as to HB 32. The Chair expresses appreciation to him. At the same time, the Chair appreciates the effort made by the Senate Finance staff to come up with the report on HB 32 which has been distributed to you.

This morning I was called by Attorney Joseph A. Millimet, legislative representative for Yankee Greyhound, Inc. who discussed with me his objections to some of the tentative calculations made in support of the Porter amendment and I asked him to produce his views and statements in writing and I would see that it was distributed to all members of the Senate and that is the reason you have before you a copy of the Memorandum ad-

dressed to me by Attorney Millimet. So I think you have both sides of the issue before us in writing. I say this only because last week I had both sides of an issue distributed and I think some members, and probably rightfully so, did not appreciate that. I hope you will not mind if from time to time I attempt such things because we do not have enough time to research all of these things ourselves and my feeling is that, if both sides are in writing and before you, you will have a better chance to make a wise judgment on the crux of the issue before you in such case.

Sen. GREEN: You have the 3 breakdown sheets that were done by the LBA office. Senator Trowbridge suggested that we find out if the figures were accurate, etc., which we have done. If you take a look at the sheet which talks about the present law, HB 32 and the Porter amendment—at the far righthand side with the Porter amendment and you get down to the \$200,000.00 mark, where it says Size of Pari-mutuel Pool—going down that side of the chart from the \$200,000.00 mark to the \$300,000.00 mark, the percent would be 10 to the State and 8 to the Track and it would continue all the way down for the rest of the chart. That is different from HB 32 without the Porter amendment. You go across to where it says HB 32 and in that case the percentage is a 9-9 share equal. I think in order to really visualize what this means in terms of revenue if you will take a look at the materials which were handed out by Senator Porter, you can see where the difference takes place. In the regular HB 32 and the amendment by Senator Porter, the beginnings of the percentage do encourage and help the people who are at the low handle end of the scale. The question, I guess, becomes one of whether we think at the \$200,000.00 mark the share should be equalized or whether it should not be. If you will look at the figures that are now available in terms of the handle, you will find that the average is somewhere around the \$200,000.00 mark—\$202,000.00-\$203,000.00. This handle is the average at the Seabrook Raceway now and they are going over the \$300,000.00 mark on given nights. Senator Porter, in his amendment, is suggesting that the break at the \$200,000.00 mark—the break-even break—at that point is not quite fair and that it is fair to go with the State share being 10% at that point rather than 9%. That is the issue. What that means in terms of dollars and cents—take a look at the second chart which says “State Share” on the left and “Track Share” on the right. On the State Share side of it, you take a look at the Porter amendment and take a look at HB 32

and you will find that the break-even point where the State does not become negative and the track does not become plus comes in somewhere around the \$225,000.00 point. And you will find at about \$275,000.00, it starts to become negative for the State. The State gets less than the Track. Now, I know you have a lot of figures in front of you and I am just trying to give you a clear understanding of what the options are when you vote on this. If you vote for the Porter amendment, you are saying that the State should get a greater share of the money between the \$200,000.00 and the \$300,000.00 point. If you vote against the Porter amendment, you are saying that the Track should gain more money at the \$200,000.00 figure. That is what the issue is. I just wanted to make sure the figures were in front of you and that you would have them to look at and be aware of what actually you are being asked to vote on.

Sen. DOWNING: I rise in opposition to the pending motion. I do not feel that the bill should be amended at all and, in fact, it should be kept intact as it was submitted to you by the Ways and Means Committee. Numbers are very, very peculiar things, I guess. You can do just about anything you want with them. One of the reasons why we go through the public hearings process is to talk directly with the people involved, the people concerned, and get their views so that we don't have to be guessing at things. As far as I am concerned, the amendment is guessing. It is assuming that the Track is going to do a certain level of business and that the owners from that business are going to invest certain dollars and it is nothing more than assumption. At the public hearing, the owners were queried relative to the changing of the percentages and how they felt about it and they emphatically said they could not afford the expansion on which they would like to embark, nor could they really continue the promotional programs they have already entered into on a lesser breakage than what was before the Senate Ways & Means Committee at that time and had been approved by the House. In fact, it was a House amendment that brought it to that point. We hear reference to Massachusetts. We are competing with Massachusetts for the business, for the dog racing dollar. We are competing very strongly with them. This is the reason why we go up to 18% because they have gone up to 18% so there is no advantage to the bettor. Now the thing is who is going to have a better facility? Who is going to have the most desirable place for the bettor to come wager his money? The breakage here that

we would give the Track in HB 32—the owner—without losing any income for the State—and I want to emphasize that; we are not losing anything. We are imagining that they are going to—or to support this amendment, you would have to imagine that all this money is going to come regardless and that we are going to see half a million dollar days at the track. I am telling you that if you support HB 32 as it came out of the Ways and Means Committee, half a million dollar days at greyhound racing could very well be a reality and that business is going to come out of Massachusetts. That is who we are competing with and, as far as I am concerned, we should not be concerned with what Massachusetts is making. But how can we get the business up here? If we give the owners the money to expand their business and run the promotion programs they should, we will get them up here and we will see half a million dollar days and we will see a lot more money in the State Treasury to do the things we need to do than we have now or that we have under any amendment. I would urge you quite strongly to defeat the amendment and support the Committee Report as it comes before you.

### ROLL CALL

Roll Call requested by Sen. Porter. Seconded by Sen. Trowbridge.

Yeas: Sens. S. Smith, Green, Trowbridge, Porter, Johnson and Nixon.

Nays: Sens. Lamontagne, Poulsen, Gardner, Jacobson, Spanos, Blaisdell, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Downing, Preston and Foley.

Result: Yeas 6; Nays 17.

Amendment lost.      Ordered to Third Reading.

### PERSONAL PRIVILEGE

Sen. JACOBSON: I want to place in the record the reason why I voted with Senator Green on his amendment in regard to the "fat trucks." As you know, I originally voted for the introduction of SB 30 in the belief it was a fundamental issue that ought to be heard. However, because it was such a fundamental issue and there was no hearing on the bill and I do not believe that parliamentarily you can have a hearing on the bill where all sides can be heard, I do not feel that I can vote for such an

important amendment unless all have the opportunity to be heard.

Sen. Foley moved the Senate do now adjourn from the Early Session, that the business in order at the Late Session be in order at the present time, bills be read by title only and that when the Senate adjourn, it be until tomorrow at 1 o'clock and that the Senate adjourn in honor of Robert Frost, a poet known in all parts of the world.

Sen. FOLEY: We honor Robert Frost whose early life was spent in a modest farm in Derry, New Hampshire. It has changed hands and even at one time was used as a garage and auto graveyard and was in disrepair. Robert Frost himself determined to reclaim the property; but, as with so many others with good intentions, he somehow never found the time or the opportunity. The State Senate today has placed the sum of \$30,000.00 in the Capital Budget to further the restoration of the Robert Frost Homestead. We have miles to go, but it is a start toward the restoration.

Today, a stamp in honor of Robert Frost went on sale in Derry and a Substation at Pinkerton Academy where Frost once taught. We congratulate Senator Brown and the Town of Derry on this auspicious occasion.

I want to close with a small piece of poetry from Robert Frost:

"I shall be telling this with a sigh  
Somewhere ages and ages hence:  
Two roads diverged in a wood, and I—  
I took the one less traveled by,  
And that has made all the difference."

Adopted.

## LATE SESSION

### Third Reading and final passage

HB 29, relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions.



HB 32, relative to the commission and taxes on pari-mutuel pools at dog tracks.

HB 33, relative to the Winnepesaukee River Basin Control; providing for continuation of the study committee on water supply and pollution control commission; and establishing an interim committee to study floodplains.

Adopted.

### RECONSIDERATION

Sen. Downing moved reconsideration of HB 29.

Motion lost.

Sen. Downing moved reconsideration of HB 32.

Motion lost.

### PERSONAL PRIVILEGE

Sen. DOWNING: Could future public hearings in the Senate Chamber be done only with the permission of the majority of the Senate? It has happened on two occasions during this Special Session and it has been extremely inconvenient.

Sen. Sanborn moved the Senate adjourn at 5:47 p.m.

Adopted.

### COMMUNICATION

As reported by the Office of the Secretary of State, the following Bills were presented to the Governor on March 7, 2:39 p.m., 1974:

HB 9, increasing the debt limit for the Londonderry school district.

HB 28, authorizing Franklin Pierce College to grant the degree of juris doctor.

The following Bills were presented to the Governor on March 20, 1:41 p.m., 1974:

HB 19, increasing the amount of political expenditures authorized for candidates in primary and general elections seeking the office of governor, U. S. senator, representative in con-

gress, governor's councilor, county officer, state senator or representative to the general court.

HB 20, increasing the interest rate of housing authority bonds.

HB 23, continuing present city of Somersworth's elected officials in office until the next regular election, and legalizing the election of delegates to the constitutional convention from the old wards of said city.

SJR 1, compensating Rene Boucher for mileage while serving on the Committee of Voter Registration and Checklists.

The following Bills were presented to the Governor on March 26, 1:42 p.m., 1974:

HB 12, conforming tax commission references in the current use taxation law to the revised revenue administration laws.

HB 15, relative to redistricting the ward lines of the city of Laconia.

HB 16, permitting public accountants and registered professional nurses to form professional associations.

HB 25, changing the reporting date for the study commission on the problems of unemployed citizens in New Hampshire.

SB 19, specifying procedures for termination of residential gas or electric service.

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### *Wednesday, 27Mar74*

The Senate met at 1 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Almighty God, Who has brought us to another day, we wish to give thanks to Thee for the coming of the beauty of Spring and the hopefulness inside of us, for the promise of renewal it brings with it. Confer on each member of this Chamber a full measure of Thy Spirit, imbue our minds with wis-

dom and the conscience of loving hearts. Keep us loyal to our hallowed memory of this great State. Give us an open mind and clear vision of the future! You, Who made and preserved this nation, grant us all these strengths, so *we*, in turn, may be righteous in our service to mankind.

In Thy Name, we pray. Amen.

The Pledge of Allegiance was led by Senator Gardner.

## HOUSE MESSAGES

### SENATE CONCURRENCE IN HOUSE AMENDMENTS

Sen. Porter moved the Senate concur in the adoption of the House amendment to:

SB 4, relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission.

Sen. PORTER: I have reviewed the changes the House made. They made change in the word "knowingly" and used a slightly different word which means the same thing, in my judgment; and, in another place, there was a different tense in a word, which did not affect the meaning.

Adopted.

Sen. Bradley moved the Senate concur in the adoption of the House amendment to:

SB 8, relative to the distribution of testate property following waiver of a will by surviving spouse and relative to the form of notice given for termination of parental rights.

Sen. BRADLEY: One of the House amendments is totally nonsubstantive. It merely removes a section of the bill which had attempted to codify existing case law which did not change any law. The House Committee felt that writing out the codification was not proper since the bill did not warn the public that was what was happening. However, it is, as I say, a totally nonsubstantive change whether it is in there or not.

The other change is a very minor one. In the amendment which the Senate adopted dealing with termination of parental rights, it simply changes the requirement as to how notice

is given in cases of parental rights. Under that part of the amendment passed by the Senate, it said that the Probate Court would do it and, under the House amendment, it says that the Probate Court will cause notice to be made by someone else. It was a very slight change and there is no need for further consideration.

Sen. BOSSIE: Would it be fair to say that the amendment — what it does is just give the Registrar of Probate less work and put more on the attorneys who are representing the individuals?

Sen. BRADLEY: It sounds that way.

Adopted.

(Senate Vice President in Chair)

Sen. Bradley moved the Senate concur in the adoption of the House amendment to:

SB 12, to further protect the rights of mobile home owners by requiring that mobile home park owners and operators state the rules and regulations of the park in writing and provide all tenants with copies of the rules and to encourage the construction of mobile home parks by not prohibiting the so-called "first sale" restriction in a new park.

Sen. BRADLEY: The amendments to SB 12 are the best that the Senate can do for the people involved in mobile home parks. It is better to take half a loaf than none at all.

Sen. BOSSIE: I would just like to state for the record that, notwithstanding the fact that the Senator from Hanover has made this motion, I am not really that satisfied with the way the House has brought the bill back to the Senate. At the same time, I am the only Senator in the State who does not have a mobile home within his District. So I feel that the sponsor of the bill, and perhaps Sen. Bradley who has many more than do I, should prevail in this matter.

I think the problem here is that under the amendment by the House the first time a lot is rented, the trailer park owners have a right to sell the mobile home. I think this is purely discriminatory against poor people and the type of people who want to live in mobile homes. I think basically the problem here is that the lobbyists for the mobile home park owners are

stronger than the tenants, as they always have been. So, I would like to say — in the future, I hope that this does change and that the law will be changed sufficiently to allow people to live where they want without having to buy their mobile home from one of these park owners.

Sen. PORTER: Why can't we move for non-concurrence and try to negotiate a little more equitable treatment of the bill?

Sen. BOSSIE: We have discussed this with the Chair. It appears that if we do attempt in any way to do it, the House will not go along with it. It appears that half a loaf is better than none at this point.

Sen. PORTER: Is that the House or special interests?

Sen. BOSSIE: Special interests that have infected the House.

Sen. NIXON: I rise reluctantly in support of the motion as offered by Sen. Bradley in respect to SB 12. SB 12 which started out and was passed by this Senate and the House last session as the mobile home owners bill of rights is in the process of having had substantial amendments attached to it by the House. The amendments were drafted, for the most part, by able representatives of the mobile home owners industry in New Hampshire. I seriously thought — to the extent of having some two additional amendments submitted to Legislative Services — of attempting to further amend the bill through the Committee of Conference route. In this respect, I might say that, from the outset as to the introduction of SB 12 at this session, I have had the very able assistance of Attorney Robert Gross of the New Hampshire Legal Assistance Program, who has personally and on behalf of the program represented many tenants in their often times losing battles with the ownership interests. I might say also that I have had the benefit of the advice and suggestions of Attorneys Charles Leahy and Chris Gallagher, very fair and very able counsel for the best part of the mobile home ownership industry.

It is my judgment, however, after having attempted to put some further teeth in the law through additional amendments and through the Committee of Conference process, that an attempt to do so would perhaps result in losing as much as we already have in terms of the bill as it now stands as amended

by the House. Rather than get nothing, I would rather get something, which is the bill in its present form.

I might say in this regard that one of the discouraging aspects of our efforts on behalf of SB 12 has been the extreme reluctance of the Attorney General's office to assume responsibility for the administration of the bill and to assume the small additional burden — small in my judgment — of seeing to the rights of these common, ordinary, average New Hampshire citizens who are caught in the cross fire of the local opposition to mobile homes in general and the legitimate desires and needs of the mobile home park owners to get increased revenues from the same number of lots and thus are, in my judgment, without fault on their own part being victimized by the facts of life. I am sorry we could not do more than is being done through the amendments by the House to SB 12. This having been said, I again hope the Senate will concur in the House amendments to the bill and let us move on to other things and hope that another day will provide more opportunity to help these people who need help.

Adopted.

Sen. S. Smith moved the Senate concur in the adoption of the House amendment to:

SB 22, establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state.

Sen. S. SMITH: What the bill and the amendment does — the first part establishes a study committee to evaluate the problems and set up a possibility of funding of private colleges with state funds. I think we have discussed this at length. The amendment deals with the machinations of the north country and the problems of resolving a Bethlehem-Franconia-Easton School District problem. I hope the Senate will go along with the amendment.

Adopted.

Sen. Trowbridge moved the Senate concur in the adoption of the House amendment to:

SB 24, authorizing cities and towns to grant franchises for cable television systems.

Sen. TROWBRIDGE: This is the cable television bill and the parties have agreed on it. In the House, the amendment cut back a little bit of the non-essential parts, but the essential part of SB 24 allowing the cities and towns to grant franchises for cable television is in and that is the key to it and that is all there is to it.

Sen. BLAISDELL: As co-sponsor of the bill with Sen. Trowbridge, I heartily concur with what he has said.

Adopted.

### HOUSE CONCURRENCE IN SENATE AMENDMENT

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

### ENROLLED BILLS REPORT

HB 3, relative to establishment of a food stamp program and making an appropriation therefor.

HB 32, relative to the commission and taxes on pari-mutuel pools at dog tracks.

Senator Paul Provost  
For the Committee

Adopted.

### HOUSE MESSAGE

The House of Representatives has passed under Joint Rule 10, the following concurrent resolution, in the passage of which it asks the concurrence of the Honorable Senate:

HCR 7, establishing a joint committee to study federal funding from the Administration on Aging.

Referred to Rules & Resolutions.

### RECESS

### AFTER RECESS

## SUSPENSION OF RULES

Sen. Lamontagne moved Joint Rule 10 be suspended so as to allow the introduction of HCR 7.

Adopted.

INTRODUCTION OF HOUSE CONCURRENT  
RESOLUTION

HCR 7, establishing a joint committee to study federal funding from the Administration on Aging.

*Whereas*, there is a definite need to obtain, evaluate and make decisions on the needs of the elderly within each state region of New Hampshire, and

*Whereas*, there is a further need to recommend, solicit, obtain, grant and administer funding and programming efforts to prevent, alleviate and solve, so far as possible, any and all of the problems of the elderly from governmental or nongovernmental sources;

*Now Therefore Be It Resolved* by the House of Representatives, the Senate concurring:

That a joint committee is hereby established to study the need for the creation of independent agencies with proportional representation of local governmental districts for the administration and distribution of federal funds from the Administration on Aging. Said committee shall be composed of three House members appointed by the Speaker of the House and two Senate members to be appointed by the President of the Senate. Said committee is to report back to each of their respective bodies no later than January 1, 1975.

## SUSPENSION OF RULES

Sen. Poulsen moved the Rules of the Senate be so far suspended as to dispense with referral to committee, notice of hearing, holding of hearing and to allow introduction of a Committee report not previously advertised in the Calendar.

Adopted.

## COMMITTEE REPORT

## HCR 7

establishing a joint committee to study federal funding



from the Administration on Aging. Ought to pass. Sen. Poulsen for Rules & Resolutions.

Sen. LAMONTAGNE: Being the only member representing the Senate on the Council on Aging, I would support this House Concurrent Resolution 7. It is only a study and I would urge its passage.

Sen. GREEN: I would like to rise in support of this and urge the Senate to vote in favor.

Adopted.

## COMMITTEE REPORTS

### HB 21

relative to the duties of the state board of education and prohibiting the expenditure of public moneys in non-public schools unless said schools have program approval by the department of education. Ought to pass with amendment. Sen. S. Smith for Education.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

### AN ACT

relative to the duties of the state board of education and prohibiting the expenditures of public moneys in non-public schools unless said schools have program approval by the department of education, supervisory union accounting of federal funds and establishing the office of chancellor of the university of New Hampshire system.

Amend the bill by striking out all after section 2 and inserting in place thereof the following:

3 Chancellor Established. Amend RSA 187:8, VII, as amended, by striking out said paragraph and inserting in place thereof the following:

VII. To appoint a chancellor of the university system, a president of the university, a president of Keene state college and a president of Plymouth state college, and to appoint such other administrative officers of each such institution and fix the duties and the compensation of all such officers;

4 Number of Trustees. Amend the introductory paragraph of RSA 187:5 (supp), as amended, by striking out in line four the word "twenty-four" and inserting in place thereof the following (twenty-five) so that said paragraph as amended shall read as follows:

The general government of the New Hampshire college of agriculture and the mechanics arts of the university of New Hampshire, of the Plymouth state college and of the Keene state college shall be vested in a single board of twenty-five trustees composed as follows and in accordance with the following conditions:

5 Chancellor to be Trustee. Amend RSA 187:5, I (supp), as amended, by striking out in line one the word "six" and inserting in place thereof the following (seven) and by inserting in line one after the word "(state,)" the following (the chancellor of the university system,) so that said paragraph as amended shall read as follows:

I. Seven ex-officio members namely; the governor of the state, the chancellor of the university system, the commissioner of agriculture, the commissioner of education, the president of the university, the president of Plymouth state college and the president of Keene state college;

6 Trustees Required for Quorum. Amend RSA 187:5-a, IV (supp) as inserted by 1971, 61:2 by striking out said paragraph and inserting in place thereof the following:

IV. Thirteen members shall constitute a quorum for the transaction of business but not less than fourteen affirmative votes shall be required to elect the chancellor of the university system or a college or university president.

7 Supervisory Union Accounts. Amend RSA 189:43-a (supp) as inserted by 1965, 199:3 by striking out said section and inserting in place thereof the following:

189:43-a Federal Assistance. Supervisory union boards are hereby authorized to cooperate with the federal government or any agency thereof to request, receive and expend federal funds for educational purposes. The receipt and expenditure of federal funds by a supervisory union shall be accounted for in the same manner as established for federal funds processed through local school districts. Each supervisory union is hereby directed

to establish separate from its operating budget a federal grant account.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect sixty days after its passage.

II. Sections 3 through 8 of this act shall take effect upon its passage.

Sen. S. SMITH: This bill gives the State Board of Education authority to grant acceptance of funds for schools which are established for the handicapped. There have been two amendments added by the Committee.

The first one deals with the bookkeeping of the supervisory unions and their acceptance of federal funds and puts them on the same basis as school districts are presently found.

The other amendment deals with the establishment of the office of Chancellor at the University of New Hampshire. What the amendment does briefly is to establish the office of Chancellor who will be appointed by the Trustees. It increases the number of Trustees from 24 to 25. It also lists the office in another section so that there will be 7 *ex-officio* members rather than 6. It increases a quorum from 12 to 13 and affirmative action for the hiring of a Chancellor must be taken by 14 members. This has been sought recently due to the fact that since the session began President Bonner at the University has tendered his resignation. The Board suggests this due to the fact that the bill which established the University System in 1963 puts the President of the University in a relatively intangible position because he is not only the President of the Durham campus but he is also President of the System. Over the years, more and more authority has been taken on by the so-called Provost at the University. The intent, if this bill passes, is to do away with the office of Provost, establish the office of Chancellor and maintain the President at the Durham campus. It is felt this would be a more equitable situation so far as all four campuses are concerned and I hope the Senate will go along with the Committee.

(Senate President in Chair)

Sen. JACOBSON: What will be the increased cost?

Sen. S. SMITH: To my knowledge, there will be no increased cost. There is no budgetary effect because you would be hiring a Chancellor and doing away with the position of Provost and moving the Provost position to the President of the Durham campus. There is no appropriation in this bill whatsoever.

Sen. JACOBSON: The wife of the individual most prominently mentioned to succeed to this job has asked me to ask you if it would be possible for the Chancellor to continue to live in the home town wherein he presently resides.

Sen. S. SMITH: Would you care to name that home town?

Sen. JACOBSON: It is a small town up country named New London.

Sen. S. SMITH: I will try to be as evasive in my answer as your question was by stating that I hope that no such amendment will be offered to the bill due to the fact that we might have even more candidates in the Senate.

Sen. JOHNSON: I rise in favor of the Committee Report as presented, particularly the Chancellor part seems to be very good. Some of the University Trustees have long felt it was a peculiar position with the President also being the head of the college. The second amendment, I checked out with the local school officials and they both felt very strongly in favor of that. Number 1, the bookkeeping should be done better but they particularly like the last sentence which said they are "hereby directed to establish separate from its operating budget a federal grant account." That has been very clumsy because miscellaneous small sums are continually coming in and particularly in the cities they have to run back for supplementary budgets. They don't always know at budget time what money is coming in.

### LAY ON TABLE

Sen. Spanos moved HB 21 be laid on the table.

### PARLIAMENTARY INQUIRY

Sen. S. SMITH: Is there a reason for this? Is there a problem with the bill?

Sen. SPANOS: I think there are significant changes being made in the University System and, just having it in front of us for the first time in a very short period of time, I think I would like to check it out and then make a determination.

Adopted.

## COMMITTEE REPORTS

### HB 1

making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes. Ought to pass with amendment. Sen. Trowbridge for Finance.

## AMENDMENT

Amend section 30 of the bill by striking out said section and inserting in place thereof the following:

30 Increasing the Appropriation for the Greyhound Racing Commission \$31,072 in 1974, and \$25,988 in 1975. Amend 1973, 376:20 by striking out said section and and inserting in place thereof the following:

#### 20 Greyhound racing commission:

Salaries of three commissioners	\$ 10,188	\$ 10,188
Other personal services:		
Permanent	32,506	33,197
Other	127,138*	135,556*
Current expenses	36,750**	42,250**
Travel:		
In state	3,470	10,000
Out of state	--	2,000
Other expenditures:		
Benefits	<u>14,890</u>	<u>14,720</u>

Total for greyhound racing commission	<u>\$224,942</u>	<u>\$247,911</u>
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Estimated source of funds for greyhound racing commission:

General	<u>\$224,942</u>	<u>\$247,911</u>
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\*Such portion of this amount that constitutes the compensation of the official judge of the Greyhound Racing Commission, shall be reimbursed to the State by the person, association, or corporation conducting the race or meet and such reimbursement shall include the employer's share of OASI taxes. Such funds shall be deposited as unrestricted revenue. The commission may establish the salary of the official judge, and any additional amount paid for this purpose over the sum appropriated for this in "Other personal services" shall be reimbursed to the state by the track, including OASI, and the funds reimbursed shall be credited to the appropriation for "Other personal services."

Such portion of this amount that constitutes the compensation of greyhound inspectors is to be utilized to provide for inspection of greyhounds only, and may not be utilized to provide for any grandstand or clubhouse area policing activities.

\*\*In this appropriation \$25,000 for 1974 and \$30,000 for 1975 shall be for lab services performed by the horse racing commission for the greyhound racing commission, and shall not be transferred or expended for any other purpose.

Amend section 34 of the bill by striking out the same and inserting in place thereof the following:

34 Reducing the Appropriation for Community Assistance (state funds) by \$641,400 in 1974, and \$464,250 in 1975. Amend 1973, 376:41, VI by striking out the lines: "Federal aid topics 275,000 275,000" and "Federal aid urban system 366,400 189,250".

Amend the bill by striking out section 38 and inserting in place thereof the following new section:

38 Changing Footnote References for 1974 and Increasing the Appropriation for the Division of Welfare \$16,120 in 1974 and \$159,179 in 1975.

I Amend 1973 376:46;VII,(b), (6) by striking out the same and inserting in place thereof the following:

(6) Administration:

Personal services:

Permanent	\$101,223	\$103,895
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Current expenses	34,892	36,004
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Travel:

In state	3,463	3,538
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Out of state	533	548
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Equipment	5,251	1,000
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Other expenditures:

Benefits	9,207	9,475
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Merit system	241	313
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Income maintenance		
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system development	67,500f	112,374
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Operational costs	<u>83,700f</u>	<u>123,565</u>
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Total	<u>\$306,010</u>	<u>\$391,712</u>
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Estimated source of  
funds for admini-  
stration:

Federal	\$153,005	\$195,856
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General	<u>153,005</u>	<u>195,856</u>
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Total	<u>\$306,010</u>	<u>\$391,712</u>
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II Appropriating Additional Funds for the Food Stamp Program. There is hereby appropriated to the Division of Welfare, Food Stamp Program the sum of \$16,120 for fiscal year 1974 and \$59,740 for fiscal year 1975 for systems development and support. The sums appropriated are in addition to any other appropriation for the food stamp program and shall not lapse until June 30, 1975. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated.

Amend section 42 of the bill by striking out the same and inserting in place thereof the following new section:

42 Increasing the Appropriation for the New Hampshire Hospital; Professional Care and Treatment by \$496,207 in 1975 and providing for patient employment and patient wages.

I There is hereby appropriated to the New Hampshire Hospital: Professional Care and Treatment the following:

	<u>1975</u>
Personal services:	
Other	\$170,108
Other expenditures:	
Benefits	<u>17,011</u>
Total	<u>\$187,119</u>

The above appropriated amounts are in addition to any other appropriation for the New Hampshire Hospital. The Governor is authorized to draw his warrant from sums not otherwise appropriated.

II Amend RSA 135 by inserting after section 14 the following new sections:

135:14-a Patient Employment. If determined by law as being mandated by the fair labor standard act as amended, the New Hampshire hospital is authorized to employ patients of said hospital to perform such services as may be determined as not necessarily being beneficial for the care and treatment of any such patients. Such patients shall not be state employees, and they shall be paid no less than the prevailing federal minimum wage. All such patient wages shall be paid directly to the superintendent, who shall deduct therefrom the costs of care, treatment and maintenance at said hospital according to the provisions of RSA 8:39-49. The superintendent shall deposit the balance of said wages in the personal account of the patient.



III Appropriation for Patient Wages. There is hereby appropriated the sum of three hundred nine thousand eighty-eight dollars to the New Hampshire hospital for the fiscal year ending June 30, 1975 for professional care and treatment, for the payment of wages of patient employees and for the payment of all statutorily required payments by the employer arising from the employment of such patients. This appropriation shall not be transferred or used for any other purpose.

Amend House Bill 1 by striking out Section 43 and inserting in place thereof the following:

43 Authorizing the New Hampshire Hospital Labor Forces to Install and Connect the Necessary Utilities to the Learning Center. The New Hampshire Hospital labor force is hereby authorized to install and connect all utilities necessary to the operation of the learning center. Costs incurred for materials and labor necessary to accomplish the above, shall be charged to the operating funds of the New Hampshire Hospital.

Amend the bill by striking out section 44 and inserting in place thereof the following new section:

44 Increasing the appropriation for 1974 by \$1,000 and for 1975 by \$26,950 in the Office of Director, Division of Mental Health; Department of Health and Welfare.

I Amend 1973, 376:46;IV,(a),(1) by inserting after the line "Benefits 3,903 4,035" the line:

Feasibility study	1,000g	--
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II There is hereby appropriated to the Division of Mental Health; Office of the Director; Office of Manpower Development and Utilization the following:

	<u>1975</u>
Personal services:	
Permanent	\$22,500
Current expenses	1,200
Equipment	1,000
Other expenditures:	
Benefits	<u>2,250</u>
Total	<u>\$26,950</u>

The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

Amend Section 45 of the bill by striking out the same and inserting in place thereof the following:

45 Increasing the Appropriation for the Division of Public Health Services by \$50,000 in 1974 and \$50,000 in 1975. Amend 1973, 376:46;V,(e),(1) Other expenditures by striking out the line "Rehabilitation 100,000 100,000" and inserting in place thereof the following:

Rehabilitation	150,000	150,000
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Further amend 1973, 376:46;V,(e),(1) by striking out the lines "Total \$402,785 \$404,427, Estimated source of funds for crippled children's services: Federal \$184,400 \$184,400, General 218,385 220,027, Total \$402,785 \$404,427" and inserting in place thereof the following:

Total	<u>\$452,785</u>	<u>\$454,427</u>
Estimated source of funds		
for crippled children's services:		
Federal	\$212,200	\$184,400
General	<u>240,585</u>	<u>270,027</u>
Total	<u>\$452,785</u>	<u>\$454,427</u>

Amend the Bill by striking out Section 46 and inserting in place thereof the following new section 46:

46 Decreasing the Appropriation for the Division of Welfare \$681,700 in 1974 and increasing the appropriation for the Division of Welfare \$514,942 in 1975. Amend 1973, 376:46, VII, (d), (1) by striking the same and inserting in place thereof the following:

(1) Case services:		
Grants	<u>\$712,000</u>	<u>\$1,913,542</u>
Total	<u>\$712,000</u>	<u>\$1,913,542</u>
Estimated source of funds		
for case services:		
Federal	\$534,000	\$1,435,156
General	<u>178,000</u>	<u>478,386</u>
Total	<u>\$712,000</u>	<u>\$1,913,542</u>

Amend the bill by striking out sections 48, 49, 50, and 51 and inserting in place thereof the following:

48 Footnote Amended. Amend 1973, 376:51, I, by striking out the footnote and inserting in place thereof the following:

\*This appropriation, or so much as may be needed shall fully fund positions 0123, 0086, 0162, and 0166 only through 9/30/74, if federal funds are available for funding said positions for FY 75, they are hereby appropriated for such purpose, and this appropriation shall be reduced by the amount of said federal funds. The balance of this appropriation shall lapse on September 30, 1974, unless federal funding has been received in an amount sufficient for funding these positions for the entire FY 75. In the event federal funding is provided these funds may be used only to the extent necessary to meet the minimum state matching requirements.

If federal funds are not available to fund these positions by September 30, 1974, the positions will be abolished.

†Positions 0208, 0118, C143, and 0248 will be abolished at June 30, 1975, if federal funds are not received for funding of these positions.

49 Footnote Amended. Amend 1973, 376:51, VII, by striking out the footnote and inserting in place thereof the following:

\*This appropriation, or so much as may be needed shall fully fund positions 0030, 0032, 0034, 0038, 0079, 0080, 0091, 0094, 0102, 0104, and 0129 only through 9/30/74, if federal funds are available for funding said positions for FY 75, they are hereby appropriated for such purpose, and this appropriation shall be reduced by the amount of said federal funds. The balance of this appropriation shall lapse on September 30, 1974, unless federal funding has been received in an amount sufficient for funding of these positions for the entire FY 1975. In the event federal funding is provided these funds may be used only to the extent necessary to meet the minimum state matching requirements.

If federal funds are not available to fund these positions, by September 30, 1974, the positions will be abolished.

50 Footnote Amended. Amend 1973, 376:51, XVI, by striking out the footnote and inserting in place thereof the following:

\*This appropriation, or so much as may be needed shall fully fund positions 0036, 0037, 0075, 0093, 0095, 0096, 0109, 0126, 0127, 0175, and 0229 only through 9/30/74, if federal funds are available for funding said positions for FY 75, they are hereby appropriated for such purpose, and this appropriation shall be reduced by the amount of said federal funds. The balance of this appropriation shall lapse on September 30, 1974, unless federal funding has been received in an amount sufficient for funding these positions for the entire FY 75. In the event federal funding is provided, these funds may be used only to the extent necessary to meet the minimum state matching requirements.

If federal funds are not available to fund these positions by September 30, 1974, the positions will be abolished.

51 Footnote Amended. Amend 1973, 376:51, XVIII, by striking out the footnote and inserting in place thereof the following:

\*This appropriation, or so much as may be needed shall fully fund position 0073 only through 9/30/74, if federal funds are available for funding said positions for FY 75, they are hereby appropriated for such purpose, and this appropriation shall be reduced by the amount of said federal funds. The balance of this appropriation shall lapse September 30, 1974, unless federal funding has been received in an amount sufficient for funding of these positions for the entire FY 75. In the event federal funding is provided these funds may be used only to the extent necessary to meet the minimum state matching requirements.

If federal funds are not available to fund these positions by September 30, 1974, the positions will be abolished.

Amend the bill by striking out section 52 and inserting in place thereof the following:

52 Reducing the General Fund Appropriation for N.H. Technical Institute, Concord, by \$63,800 in 1974, and \$65,000 in 1975. Amend 1973, 376:51; XIV,(a) by striking out the line "Current expenses 279,282 285,335" and inserting in place thereof the following:

Current expenses	215,482#	220,337†
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#In this appropriation \$5,000 shall be for road maintenance and construction of institute roadway, and no part of this amount shall be transferred or expended for any other purpose.

†In this appropriation \$25,000 shall be for instructional equipment for mechanical engineering curricula, and no part of this amount shall be transferred or expended for any other purpose.

Amend section 53 of the bill by striking the introductory paragraph and inserting in place thereof the following:

53 Public Works Division of Department of Public Works and Highways Appropriation. The sum of two hundred fifteen thousand two hundred eighty six dollars is hereby appropriated to the public works division of department of public works and highways for contractual maintenance projects as follows:

Further amend section 53 of the bill by striking out the line in the New Hampshire Youth Development Center "Install boiler stand-by feed pump \$2,850".

Further amend section 53 of the bill by striking out the line in the New Hampshire Youth Development Center "Total \$78,090" and inserting in place thereof the following:

Total	<u>\$75,240</u>
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Further amend section 53 of the bill by striking out the line "Total for contractual maintenance projects \$218,136" and inserting in place thereof the following:

Total for contractual maintenance projects	<u>\$215,286</u>
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Amend the bill by striking out section 56 and inserting in place thereof the following:

56 Increasing the appropriation to the Department of Administration and Control \$16,000 in 1974 and \$8,000 in 1975.

I The sums of \$8,000 in 1974 and \$8,000 in 1975 are hereby appropriated to the department of administration and control for membership dues in the education commission of the state.

II The sum of \$8,000 in 1974 is hereby appropriated to the department of administration and control, New England board of higher education for New Hampshire's share of a regional veterinary medical school study.

These appropriations are in addition to all other appropriations to the department of administration and control. The governor is authorized to draw his warrant for said sums out of any funds in the treasury not otherwise appropriated.

Amend the bill by striking out section 57 and inserting in place thereof the following:

57 Providing for the Development and Operation of a Computerized Budget System and Increasing the Appropriation to the Department of Administration and Control \$67,272 in 1975.

I Amend 1973, 376:4, VI; (a) by striking out said subparagraph and inserting in place thereof the following:

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
(a) Accounting:		
Salary of director	\$ 20,104	\$ 20,104
Other personal services:		
Permanent	171,069	184,102
Other	21,329	3,017
Current expenses	23,000	23,900
Travel:		
In state	10	10
Out of state	50	50
Equipment	6,000	2,680
Other expenditures:		
Data processing services	208,823d	182,646d
Development and operation of a computerized budget system	74,189*	50,000d
Benefits	<u>19,125</u>	<u>18,650</u>
Total	<u>\$ 543,699</u>	<u>\$ 485,159</u>
Estimated source of funds for accounting:		
General	<u>\$ 543,699</u>	<u>\$ 485,159</u>

\* This appropriation shall not be transferred or expended for any other purpose, and any expenditures shall have prior approval of the director of department of centralized automated data processing. This appropriation shall not lapse until June 30, 1975.

II Further amend 1973, 376:4, I by striking out the line "Other 3,000 3,000" and inserting in place thereof the following:

Other	3,000	10,000
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Amend the bill by striking out section 58 and inserting in place thereof the following:

58 Increasing the Appropriation for Centralized Data Processing by \$2,950 in 1974 and \$25,014 in 1975. Amend 1973, 376:5;I by striking out said section and inserting in place thereof the following:

Centralized automated data processing:

I Administration and support:

Salary of director	\$26,670	\$26,670
Salary of deputy director	20,738	20,738
Salary of manager of management information systems	19,845	19,845
Salary of manager of operations	16,905	17,743
Salary of manager of programming	18,230	19,005
Salary of staff associate for technical resources control	--	18,568

Other personal services:

Permanent	94,399	104,830
Other	6,650	6,650
Current expenses	32,412	34,028

Travel:

In state	1,200	1,200
Out of state	3,175	3,675

Equipment	1,712	5,200
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Other expenditures:

Commission expense	2,775	3,700
Professional fees	12,000	12,000
Benefits	<u>14,233</u>	<u>17,104</u>

Total	<u>\$270,944</u>	<u>\$310,956</u>
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Estimated source of funds for administration and support:

General	<u>\$270,944</u>	<u>\$310,956</u>
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Further amend 1973, 376:5; III by striking out the line "Out of state 1,475 1,475" and inserting in place thereof the line:

Out of state	2,000	2,000
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Amend the bill by striking out section 60 and inserting in place thereof the following:

60 Decreasing the Appropriation for Centralized Automated Data Processing by \$79,507 in 1974 and Changing the Source of Funds. Amend 1973, 376:5; II by striking out the line "Permanent \$278,872 \$378,141" and inserting in place thereof the line:

Permanent	\$213,872##	\$378,141
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Further amend 1973, 376:5; II by inserting at the end of said paragraph the following footnote:

##No authorized positions for Operations are being abolished by this action.

Amend 1973, 376:5; III by striking out the line "Permanent \$216,996 \$256,168" and inserting in place thereof the line:

Permanent	202,489†	256,168
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Further amend 1973, 376:5; III by inserting at the end of said paragraph the following footnote:

†No authorized positions for Programming are being abolished by this action.

Further amend 1973, 376:5, by striking out the lines "Total for centralized automated data processing \$2,149,128\* \$2,474,979\*; Estimated source of funds for centralized automated data processing: Transfers from state agencies \$1,346,545 \$1,650,903; General 802,583 824,076; Total \$2,149,128 \$2,474,979", and inserting in place thereof the following:

Total for centralized automated data processing	<u>\$2,107,571*</u>	<u>\$2,506,223*</u>
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Estimated source of funds for centralized automated data processing:

Transfers from state agencies	\$1,363,545	\$2,023,869
General	<u>744,026</u>	<u>482,354</u>
Total	<u>\$2,107,571</u>	<u>\$2,506,223</u>

Amend section 66 of the bill by striking out said section and inserting in place thereof the following:

66 Increasing the Appropriation for the Attorney General by \$11,500 in 1974, and \$46,081 in 1975. Amend 1973, 376:14, I, (a) by striking out the same and inserting in place thereof the following:

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
(a) Administrative:		
Salary of attorney general	\$ 23,314	\$ 23,314
Salary of deputy attorney general	21,500	21,500
Salary of two assistant attorneys general	36,910	37,712
Other personal services:		
Permanent	91,957	107,387
Other	750	750
Current expenses	6,800	7,000
Travel:		
In state	750	750
Out of state	1,100	1,100
Equipment	3,673	3,103
Other expenditures:		
Benefits	15,699	16,916
Commission on uniform laws	3,100f	4,200
Continuing legal education	17,000	17,000
Summer intern program	3,400	3,400
Mobile prosecutorial strike force	34,000	34,000
B & M railroad litigation fund	20,000f	25,000
N.H. - Maine boundary litigation	15,000f	-

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
United States v. Maine, New Hampshire, et al.	\$ 1,765f	\$ -
Special counsel - CAB hearing and related expenses	2,050f	-
Law enforcement manual	<u>1,600f</u>	<u>-</u>
Total	<u>\$ 300,368</u>	<u>\$ 303,132</u>
Estimated source of funds for administrative:		
Transfer from crime commission	\$ 48,000	\$ 48,000
Transfer from welfare	16,000	16,000
General	<u>236,368*</u>	<u>239,132*</u>
Total	<u>\$ 300,368</u>	<u>\$ 303,132</u>

\* Within this appropriation the sum of \$6,400 for fiscal year 1974 and the sum of \$6,400 for fiscal year 1975 is provided for the express purpose of satisfying matching requirements for LEAA grants allocated through the Governor's Commission on Crime and Delinquency.

Further amend 1973, 376:14, IV by striking out the same and inserting in place thereof the following:

IV Eminent domain and public works  
and highways:

Salaries of four assistant attorneys general	\$ 54,382	\$ 59,794
Other personal services:		
Permanent	28,994	30,407
Current expenses	3,250	3,250
Equipment	300	200

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
Travel:		
In state	\$ 1,200	\$ 1,200
Out of state	300	300
Other expenditures:		
Benefits	6,000	6,428
Eminent domain -		
special counsel	<u>20,000g</u>	<u>-</u>
Total	<u>\$ 114,426</u>	<u>\$ 101,579</u>
Estimated source of		
funds for eminent		
domain and public		
works and highways:		
Highway	<u>\$ 114,426</u>	<u>\$ 101,579</u>

Further amend 1973, 376:14 by adding in paragraph V  
after the line "permanent 6,901 7,164" the line:

Other	1,500	2,000
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Amend section 70 of the bill by striking out the same and inserting in place thereof the following:

70 Increasing the Appropriation to the Department of Resources and Economic Development to Update the State Comprehensive Outdoor Recreation Plan, to Make Permanent the Temporary Position of one Recreation Technician and Provide Additional out of State Travel Funds for the Office of the Commissioner.

I There is hereby appropriated to the department of resources and economic development the sum of \$70,000, in addition to any other sums appropriated, for fiscal 1974 for the state comprehensive outdoor recreation plan. The sum hereby appropriated shall be a charge against federal funds in the amount of \$35,000 and from funds not otherwise appropriated in the amount of \$35,000 for fiscal 1974. The sums hereby appropriated shall not be transferred or used for any other purpose and shall not lapse until June 30, 1975.

II There is hereby appropriated to the department of resources and economic development, recreation services, in addition to any other sums appropriated, the following:

	<u>1974</u>	<u>1975</u>
Personal services:		
Permanent	\$1,954*	\$10,806
Other expenditures:		
Benefits	176	974

\*New position of 1 recreation technician effective April 25, 1974.

The Governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

III Amend 1973, 376:35, I, (a) by striking out the line "Out of state 1,200 1,200" and inserting in place thereof the following:

Out of state	1,200	2,200
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Amend section 72 of the bill by striking out said section and inserting in place thereof the following:

72 Increasing the appropriation for the water resources special board by \$3,000 in 1974, and \$3,000 in 1975. Amend 1973, 376:36, III by striking out the lines "Other 4,500 4,500, In state 4,000 4,000" and inserting in place thereof the following:

Other	6,500	6,500
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In state	5,000	5,000
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Amend section 74 of the bill by striking out said section and inserting in place thereof the following new section:

74 Institutional Employee Exemption from Nursing Regulations. Amend RSA 326-A:6, as inserted by 1959, 265:1, by inserting after paragraph V the following new paragraph:

VI. Employees of any of the several state institutions from performing selected activities in the administration of medications, provided that the selected activities are limited to the giving of prescribed, individually prepared, oral doses of medication to patients, and, provided further that the employees performing such selected activities are designated by, and trained to the satisfaction of, the head of the institution concerned.

Amend the bill by striking out the sections 79 and 80 and inserting in place thereof the following:

79 Salary. Amend RSA 94:1-a (supp) as amended by 1973, 377:6, by removing "Manager of Management Information Systems, Data Processing 16,922 21,464 Manager of Operations, Data Processing 16,922 21,464 Manager of Programming, Data Processing 16,922 21,464" and inserting in the proper alphabetical order the following:

Manager of Computer Operations	16,922	21,464
Manager of Planning and Support	16,922	21,464
Manager of Systems Development	16,922	21,464
Staff Associate for Technical Resources Control	17,603	22,430

80 Amend RSA 8-C:8-a by striking out said section and inserting in place thereof the following:

8-C: 8-a Managers and Staff Associate. The director may employ the following unclassified personnel: a manager of computer operations, a manager of planning and support, a manager of systems development and a staff associate for technical resources control. Each manager and staff associate shall serve at the pleasure of the director and his salary shall be as provided in RSA 94:1 provided that the director may at any time, establish the salary of each at any step in the range as therein provided.

Amend the bill by striking out section 83 and inserting in place thereof the following:

83 Estimated Federal Funds. If under any appropriation in section 2 thru 27, 70, and 78, excepting section 21, I, (a),(1) the federal grant received is less than estimated, the total appropriation shall be reduced by both the amount of reduction in federal estimates and the reduction of applicable state matching funds. If the applicable state matching funds are included in a section or sections other than the section or sections in which the federal grants are estimated, the appropriation reductions shall be made in the applicable sections. The provisions of this section shall not apply to revenue sharing funds.



Amend section 85 of the bill by striking out in the footnote at the end of said section the last sentence "Provisions of RSA 206:36 shall be suspended for the biennium ending June 30, 1975." and inserting in place thereof the following:

Provisions of RSA 206:36 shall be suspended for the biennium ending June 30, 1975, except that after the estimated unrestricted revenue of \$2,405,732 has been deposited with the state treasurer for fiscal 1975, the Fish and Game Commission may request Governor and Council approval for a transfer of not more than \$25,000 from the Fish and Game Fund to the Law Enforcement line item appropriation, "Other Personal Services."

Amend 1973, 376:33, III, (a) as inserted by section 85 of this bill by striking out the same and inserting in place thereof the following:

(a) Districts 1-6:

Personal services:		
Permanent	\$451,675*	\$468,437*
Other	1	1
Current expenses	39,585	46,858
Travel:		
In state	82,358	65,358
Out of state	45	-
Equipment	40,040	55,000
Other expenditures:		
Benefits	40,651	42,160
Accrued liability	<u>30,172a</u>	<u>30,172a</u>
Total	<u>\$684,527</u>	<u>\$707,986</u>
Estimated source of funds for districts 1-6:		
Fish and game	\$659,527	\$682,986
General	<u>25,000</u>	<u>25,000</u>
Total	<u>\$684,527</u>	<u>\$707,986</u>

- \* Positions #60 and #73 to be funded only thru January 4, 1974 in fiscal 1974, and in fiscal 1975 position #60 shall remain vacant and position #73 may be filled with a conservation officer trainee. Also, upon promotion of two existing conservation officers their positions shall remain unfilled thru fiscal 1975.

Amend section 88 of the bill by striking out said section and inserting in place thereof the following:

88 Reducing the Appropriation for Office of Comprehensive Planning \$178,020 in 1974, and \$104,640 in 1975. Amend 1973: 3, VI by striking out said paragraph and inserting in place thereof the following:

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
VI Office of comprehensive planning:		
Personal services:		
Permanent	\$166,598	\$170,157
Other	96,900	131,079
Current expenses	18,188	20,100
Travel:		
In state	2,800	5,800
Out of state	4,100	5,600
Equipment	2,800	4,515
Other expenditures:		
Contractual expenses	108,200*	126,500*
Project inspection fees	2,825	3,000
Benefits	12,800	26,311
Grants:		
Regional assistance	334,500**	330,000**
N.E. river basins commission	<u>27,580</u>	<u>28,960</u>
Total	<u>\$777,291</u>	<u>\$852,022</u>

- \* Positions #60 and #73 to be funded only thru January 4, 1974 in fiscal 1974, and in fiscal 1975 position #60 shall remain vacant and position #73 may be filled with a conservation officer trainee. Also, upon promotion of two existing conservation officers their positions shall remain unfilled thru fiscal 1975.

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Permanent	\$166,598	\$170,157
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Current expenses	18,188	20,100
Travel:		
In state	2,800	5,800
Out of state	4,100	5,600
Equipment	2,800	4,515
Other expenditures:		
Contractual expenses	108,200*	126,500*
Project inspection fees	2,825	3,000
Benefits	12,800	26,311
Grants:		
Regional assistance	334,500**	330,000**
N.E. river basins commission	<u>27,580</u>	<u>28,960</u>
Total	<u>\$777,291</u>	<u>\$852,022</u>

Amend the bill by striking out all after section 89 and inserting in place thereof the following:

90 Increasing the Appropriation to the Judicial Branch \$10,543 in 1974 and \$6,953 in 1975. The following sums are hereby appropriated to the judicial branch:

	<u>1974</u>	<u>1975</u>
I Supreme court:		
(a) Administration and legal activities:		
Current expenses	\$3,393	\$1,953
Other expenditures:		
N.H. supreme court reports	<u>4,150*</u>	<u>-</u>
Total	<u>\$7,543</u>	<u>\$1,953</u>

\* This appropriation shall not lapse until June 30, 1975.

II Superior court:		
Current expenses	<u>\$3,000</u>	<u>\$5,000</u>

These appropriations are in addition to all other appropriations to the judicial branch. The governor is authorized to draw his warrant from any funds in the treasury not otherwise appropriated.

91 Increasing the Appropriation to the Department of Agriculture by \$11,470 in 1975. The following sums are hereby appropriated to the department of agriculture for pesticide control:

	<u>FISCAL 1975</u>
Agriculture:	
Agricultural regulation programs:	
Pesticide control:	
Personal services:	
Permanent	\$ 7,326
Travel:	
In state	785
Out of state	200
Equipment	2,500
Other expenditures:	
Benefits	<u>659</u>
Total	<u>\$ 11,470</u>

These appropriations are in addition to all other appropriations to the department of agriculture. The governor is authorized to draw his warrant from any funds in the treasury not otherwise appropriated.

92 Authorizing the Department of Safety, Division of Motor Vehicles to Establish a Motor Vehicle Substation in the City of Manchester and Providing an Appropriation therefore. There is hereby appropriated to the department of safety, division of motor vehicles, for the purpose of establishing a motor vehicle substation in the city of Manchester the following:

1975

Personal services:	
Permanent	\$ 5,855
Other	5,381
Current expenses	1,826
Equipment	2,811
Other expenditures	
Benefits	<u>101</u>
Total	<u>\$15,974</u>

The above amounts are appropriated in addition to any other appropriation for the Department of Safety. The sums appropriated shall be a charge against the highway fund and shall not be transferred or used for any other purpose.

93 Establishing a Separate Line Item for Data Processing Services Appropriated in Chapter 376, Laws of 1973 and Increasing the Appropriation to the Department of Safety, Division of Motor Vehicles by \$100,000 for an Automated Registration System.

I Amend 1973, 376:30, III, (a), (1) by striking out the line "Current expenses 217,000 200,000" and inserting in place thereof the following:

Current expenses	217,000	190,000
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Further amend 1973, 376:30, III, (a), (1) by inserting after the lines Other expenditures: Benefits 29,775 30,401 the following new line:

Data Processing	-	10,000d
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II Amend 1973, 376:30, III, (a), (6) by striking out the line "Current expenses 239,619 235,302" and inserting in place thereof the following:

Current expenses	8,540	6,607
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Further amend 1973, 376:30, III, (a), (6) by striking out the line "Registration conversion - -" and inserting in place thereof the following two lines:

Motor vehicle registration		
CDP maintenance	231,079d	228,695d
Automated registration		
system and direct file		
access	-	100,000d

94 Increasing the Appropriation for the General Court by \$18,110 in 1974, and \$40,316 in 1975. Amend 1973, 376: 2, I, (a) and (b) by striking out the same and inserting in place thereof the following:

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
(a) Senate:		
Personal services:		
Members	\$ -	\$ 6,050
Attaches	38,000	95,000
Current expenses	7,000	18,900
Travel - members and attaches	10,000*	53,001**
Equipment and capital improvements	2,500	5,000
Other expenditures:		
Membership fees	1,500	1,500
Legal services and consultants	1,500	3,000
Benefits	<u>3,420</u>	<u>8,550</u>
Total	<u>\$ 63,920</u>	<u>\$ 191,001</u>
Estimated source of funds for senate:		
General	<u>\$ 63,920</u>	<u>\$ 191,001</u>

\* Includes travel and expenses authorized by RSA 14-A:3 (supp).

\*\* In addition to travel allowed for attending sessions of the general court, this sum shall include payments as authorized by RSA 14-A:3 except that after a member fails of nomination in a primary election or fails of election or shall have not filed for re-election to his office, no expenses shall be allowed him for out of state travel.

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
(b) House:		
Personal services:		
Members	\$ -	\$ 86,680
Attaches	82,299	227,559
Current expenses	23,000	47,422
Travel - members and attaches	32,835*	505,000**
Equipment and capital improvements	10,000	15,000
Other expenditures:		
Membership fees	1,400	1,400
Legal services and consultants	1,000	1,000
Standing and interim committees	8,000	4,000
Speaker's special fund	500***	500***
Minority leader's special fund	250***	250***
Benefits	<u>7,407</u>	<u>20,413</u>
Total	<u>\$ 166,691</u>	<u>\$ 909,224</u>
Estimated source of funds for house:		
General	<u>\$ 166,691</u>	<u>\$ 909,224</u>

\* Includes travel and expenses authorized by RSA 14-A:3 (supp)

\*\* In addition to travel allowed for attending sessions of the general court, this sum shall include payments as authorized by RSA 14-A:3 except that after a member fails of nomination in a primary election or fails of election or shall have not filed for re-election to his office, no expenses shall be allowed him for out of state travel.

\*\*\* To be fully accountable.



95 Increasing the Appropriation for Water Pollution Commission by \$112,207 in 1975. Amend 1973, 376:37, 1 by striking out said paragraph and inserting in place thereof the following:

	<u>FISCAL 1974</u>	<u>FISCAL 1975</u>
I Office of commission:		
Salary of executive director	\$ 23,674	\$ 23,674
Salary of deputy executive director	20,733	20,733
Salary of director of municipal services	16,136	16,136
Salary of chief aquatic biologist	16,256	16,256
Salary of pesticides surveillance scientist	14,608	14,968
Other personal services:		
Permanent	921,660	1,061,267
Other	9,700	9,700
Current expenses	163,875*	183,696*
Travel:		
In state	66,000	71,300
Out of state	3,000	4,000
Equipment	6,500	6,500
Other expenditures:		
State aid grants	2,323,985**	3,597,550**
Benefits	<u>92,049</u>	<u>104,645</u>
Total	<u>\$3,678,176</u>	<u>\$5,130,425</u>
Estimated source of funds for office of commission:		
Federal	\$ 151,100†	\$ 263,307†
Real estate transfer tax	300,000	300,000
General	<u>3,227,076</u>	<u>4,567,118</u>
Total	<u>\$3,678,176</u>	<u>\$5,130,425</u>

\* This appropriation includes \$500 for insurance. This sum is to be available to cover the cost of premiums required for complete marine insurance to meet the usual hazards which develop in off shore estuarine water quality control work.

\*\* The sum hereby appropriated shall not lapse, but shall be added to the appropriation of the commission in any succeeding fiscal year, to be used for the purpose herein contained.

† The Commission is hereby authorized to accept and expand, with Governor and Council approval, any additional Federal funds which may be made available in the interest of the state's water pollution control program under the provisions of P.L. 92-500 or amendments thereto.

9c      Increasing the Appropriation for the Department of Revenue Administration, Business Profits tax Component by \$9,500 in 1974 and \$20,000 in 1975. There is hereby appropriated to the Department of Revenue Administration, Business Profits tax Component for out of state travel \$9,500 in 1974 and \$20,000 in 1975. The sums hereby appropriated are in addition to any other appropriation for the business profits tax component. The governor is authorized to draw his warrant from sums not otherwise appropriated.

97 Additional Attorney General. Amend RSA 7:16 as amended by striking out in line two the word "sixteen" and inserting in place thereof the word (seventeen) so said section as amended shall read as follows:

7:16 Assistant Attorneys-General. The attorney-general, subject to the approval of the governor and council, may appoint seventeen assistant attorneys-general, each of whom shall hold office for a term of five years. Any vacancy in such office may be filled for the unexpired term. An assistant attorney-general may be removed only as provided by RSA 4:1.

98 Reimbursement of Disaster Relief Funds. Other provisions of law notwithstanding, if any state department or agency having received funds from the emergency fund or operating budget contingent fund for disaster relief, shall, during the same fiscal year, be reimbursed from federal funds for the same purposes, the governor and council may authorize and direct the comptroller to transfer from such federal funds received by any such department or agency sufficient funds to reimburse the respective state fund or funds up to the amount received therefrom.

99 Increasing the Appropriation for the Executive Council. There is hereby appropriated to executive council, in addition to any other funds appropriated, the sum of \$550 for fiscal 1974 for the purchase of equipment. The governor is authorized to draw his warrant for the sum hereby appropriated out of any money in the treasury not otherwise appropriated.

100 Increasing the Appropriation for the Office of Comprehensive Planning. There is hereby appropriated to the office of comprehensive planning, in addition to any other funds appropriated, the sum of \$1,225 for fiscal 1974 for reimbursement to Frances Shaine for legal services incurred in protection of her position. The governor is authorized to draw his warrant for the sum hereby appropriated out of any money in the treasury not otherwise appropriated.

101 Footnote Amended. Amend 1973, 376:26, I, by striking out the line "Miscellaneous data processing expense 42,200d 42,200d" and inserting in place thereof the line:

Miscellaneous data processing expense 42,200\* 42,200d

Further amend 1973, 376:26, I, by inserting after said paragraph the following footnote:

\*This appropriation shall not lapse until June 30, 1975 and shall not be transferred or expended for any other purpose, and any expenditures shall have prior approval of the director of department of centralized automated data processing.

Further amend 1973, 376:26, II, by striking out the line "Data Processing Rent 5,000d 5,000d" and inserting in place thereof the line:

Data Processing Rent 5,000\*\* 5,000d

Further amend 1973, 376:26, II, by inserting after said paragraph the following new footnote:

\*\*This appropriation shall not lapse until June 30, 1975 and shall not be transferred or expended for any other purpose, and any expenditures shall have prior approval of the director of department of centralized automated data processing.

102 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: The Senate version of the budget — there will be some other amendments coming which we probably will support — but the supplement you see is really quite simple. As you recall, the budget bill had four sections.

Section 1 is exclusively the cost of living and energy cost factors to the departments and that has been agreed to. We have made no changes.

Section 2 of the bill — the adjustments in the Public Works & Highway budget due to the energy crisis and the dip in revenue from the gas tax. Again, we have made no changes in those. If we had not done Section 2, Bob Whitaker and his group would have had to make 75 transfers from the Governor and Council and it would have taken enormous paper work, which is all done in Section 2 of the bill.

Section 3 summarizes Sections 1 and 2. So the only changes that are being made are in Section 4 of the bill.

To give you an overall summary of the money we are talking about — in fiscal 1974, due to the Senate amendment, the General Fund expenditure would go down by \$106,402.00. This is primarily made up by the fact that the case services for the Welfare Department, by which they make homemaker case service go out to the homes and work through the VNA and that kind of agency, has not gotten up as fast as was expected. They have not spent the money and it is being transferred over into fiscal 1975. So that is one reason for the downturn. In 1975, there is a net increase of \$452,104.00. Of the \$452,104.00 net increase, \$309,000.00 comes from a wrinkle that we heard about only in the last part of our deliberations. It turns out that the Fair Labor Standards Act of the Federal government has been amended and it has been held by the Federal District Court in Washington to apply to the work of patients in mental hospitals who are doing what they call non-therapeutic work; namely the persons at the New Hampshire Hospital who are, let's say, doing the laundry which you can't count as being therapeutic work. Under the new Fair Labor Standards Act, they will have to be paid the minimum wage and, since there is a contingency here that federal law will be upheld by the other courts, we have had to put in the amount of \$309,000.00 to provide for the payment to these patients of a minimum wage whereas now they only get \$5.00 a week or so pin money. However, there is

another part of the statutes which says that all amounts received by the patients shall be credited for their room and board so that the payments will be made to the patient and then will be handed back over to the State Treasurer in payment for their room and board and, although we are not sure of how much will be retained by the patient, it is estimated that \$200,000.00 of the \$309,000.00 will go back to the State under the regular RSA which says that their Social Security benefits or whatever goes to the State for their board and care. So that, although it looks like a big increase of \$452,104.00 in the second year, actually \$309,000.00 of that is this payment and \$200,000.00 of that will come back. So that gives you an over-view.

We have also estimated that because we have given \$30,000.00 in travel expenses for the auditors of the Business Profits Tax, we will get an extra \$300,000.00 in revenue. So, if you take the \$300,000.00 revenue from the Business Profits Tax; \$200,000.00 in payment of this Fair Labor Standards Act, that is an increase in income of \$500,000.00, which offsets the net appropriation increase here over the House version of \$345,000.00 so we are actually coming out \$154,000.00 ahead on this particular budget.

Now, in going through the bill, most of the provisions in the back of the Senate version are shifts of budgets, not so much new spending. A lot of them are Centralized Data Processing charges and what happens is that, for instance, Fred Clarke is given \$100,000.00 extra to do his automated re-registration. That increases his budget. However, that \$100,000.00 in the Motor Vehicle Department budget is related to an offset in the CDP budget because the General Fund amount needed to fund CDP goes down by \$100,000.00. As we work through this thing, we can hope some day CDP will come to a point where it has a zero General Fund appropriation because all of its income will be coming from the other agencies.

There are a lot of little changes. For instance, New Hampshire Technical Institute, Section 52 of the bill, has been amended because the Technical Institute found it could get its food served to it better and cheaper by a concessionaire so they have freed up \$25,000.00. That \$25,000.00 is being reappropriated for equipment at the Technical Institute. That is the kind of item in here.

The Attorney General, for instance. In the Attorney Gen-

eral's division he has two men; one who is now a classified employee and one an unclassified. We have increased the number of Attorneys General to 17, but it is only a \$3,000.00 raise in order to have them both on an equal par. Then we have provided for another classified attorney to work in the Administration Division which is the general legal affairs of the State in order to help with the load in the Attorney General's office.

In Comprehensive Planning, the HUD funds are diminishing, but in the remaining HUD Program \$35,000.00 of General Funds raises \$75,000.00 of federal funds and that has been taken care of.

In Agriculture, we have added a pesticides man — the extra pesticides inspector requested by Commissioner Townsend last time and refused. Now we are putting it back in.

In Motor Vehicle, we are putting in \$15,974.00 for an extra Manchester Substation for the Motor Vehicle Department which will be located in the City Hall in Manchester. The space has been provided.

In Water Pollution, you should know there are some \$112,207 of federal funds only coming into Water Pollution. These are to administer some \$35 million of federal funds that are now freed up from impoundment for the construction of things like the Winnepesaukee River Basin and all the other construction projects so that, again, we are making progress but it is the federal funds and does not affect the General Funds revenue.

I would be very happy to answer any questions, but I think this really has not been an enormous change on our part — just the things that we heard about that the House didn't hear about, especially this item out at the New Hampshire Hospital on the Fair Labor Standards Act is something that Arthur Drake and his Committee never heard about at all so that they can hardly be blamed for not having put it in.

I think that you will find we have kept the budget down to a reasonable level within the guidelines of what I said on the Floor here of our expenditures and the extra revenues will more than offset the expenditures.

Sen. JACOBSON: With respect to the \$309,000.00 you referred to, do you have any estimate of the actual cost — I pre-

sume there are some who presently are paying more than others, vis-a-vis their Social Security or other kinds of payment. Were you able to get an estimate of the actual increased cost or was it so minimal you did not need to worry about it?

Sen. TROWBRIDGE: No. I think what I am saying is of the \$309,000.00 about \$200,000.00 will come back in for board and care because these are people who have no income at all. It has nothing to do, by the way, with the thing we passed last year saying that after ten years a family is not responsible for a person up at the New Hampshire Hospital. That has nothing to do with it because this is the person himself generating the income and then the income coming back into the State for his board and maintenance. So, I think if the worst case happens, it would be a cost of \$109,000.00.

Sen. BRADLEY: The other day you gave us a breakdown of where we stand and we came out with a projected surplus. How does this figure compare with the figure you gave on that day?

Sen. TROWBRIDGE: As I say, we are \$106,000.00 less than HB 1 for fiscal 1974. We are \$452,000.00 more for fiscal 1975 than HB 1. But, in that \$452,000.00 is the \$309,000.00 I have been talking about of which \$200,000.00 is coming back. I would say in comparison with my previous talk, we probably have raised the budget \$200,000.00 so that it is within, I think, the limits of our spending perimeters in that I ended up with \$6.9 million surplus at the end of the biennium under the prior thing so that it would now be \$6.7 million of surplus.

Sen. BOSSIE: I would like to speak very briefly in regard to HB 1 as proposed by the Senate Finance Committee. I want to commend the Chairman of the Finance Committee, Sen. Trowbridge, and the members of the Committee for the addition in the budget of the Senate of \$15,974.00 for the Motor Vehicle Substation in the City of Manchester. This is not a significant amount of money and the problem is not overly significant, but it will service a number of people in our area. We are the largest city in the State. Not having a Substation presents great problems for us. On behalf of my fellow Senators from Manchester, I would like to thank the Committee.

Adopted.

Sen. Jacobson moved adoption of the following amendment.



## AMENDMENT

Amend section 101 of the bill by striking out said section and inserting in place thereof the following:

101 Increasing the Appropriation for the Liquor Commission by \$93,762 in 1975. Amend 1973, 376:26, I by striking out said paragraph and inserting in place thereof the following:

	Fiscal 1974	Fiscal 1975
I Revenue collection:		
Salaries of three commissioners	\$65,160	\$65,160
Other personal services:		
Permanent	2,807,558	2,897,887
Other	530,000	530,000
Current expenses	1,300,900	1,400,800
Travel:		
In state	18,000	18,000
Out of state	3,500	3,500
Equipment	310,000	335,000
Other expenditures:		
Contingency fund	25,000f	
Data processing rent	117,600d	134,400d
Miscellaneous data		
processing expense	42,200*	42,200d
Benefits	306,245	314,375
Total	<u>\$5,526,163</u>	<u>\$5,741,322</u>
Estimated source of funds for revenue collection:		
Sweepstakes sales	\$100,000	\$100,000
General	5,426,163	5,641,322
Total	<u>\$5,526,163</u>	<u>\$5,741,322</u>

\*This appropriation shall not lapse until June 30, 1975 and shall not be transferred or expended for any other purpose, and any expenditures shall have prior approval of the director of department of centralized automated data processing.

Further amend 1973, 376:26, II, by striking out the lines

"Data Processing Rent \$5,000d 5,000d" and inserting in place thereof the line:

Data Processing Rent	5,000**	5,000d
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Further amend 1973, 376:26, II, by inserting after said paragraph the following new footnote:

\*\*This appropriation shall not lapse until June 30, 1975 and shall not be transferred or expended for any other purpose, and any expenditures shall have prior approval of the director of department of centralized automated data processing.

Sen. JACOBSON: This is a very simple amendment sponsored by Sen. Trowbridge and myself. What it does is add \$93,762.00 to the budget for the purpose of establishing a liquor store in the town of Winchester and in the town of New London. Sen. Trowbridge and I discussed this and, rather than have any form of "sneaky pete" associated, that it would be right out here in the open. This has passed the Senate twice before and it seemed reasonable that, under these circumstances, a further effort should be made. This is for fiscal 1975 that this appropriation would take place. I might say that with respect to the town of New London, during the energy crisis there has been an increased demand for a liquor store in New London. This has been due to the fact that our closest one is 14 miles away so if you go 14 miles one way and 14 miles back, that is 28 miles and when we had lines of 8, 10, 12, 15 people, people were feeling that they would like to save their gasoline. Actually, the total sales of liquor probably went down as a result. Plus, we are having an increase in population and increased summer activities.

Sen. TROWBRIDGE: Sen. Jacobson and I jointly sponsor this and again I hope you will remember that last session at the very end the crunch was on the Conference Committee and we were forced to take some \$400,000.00 out of the Liquor Commission budget, which I don't think was a smart move then and I don't think it is now. I agree with Sen. Jacobson that, as we come to a point where gasoline gets higher priced, we will probably want more local liquor stores. I can say in the town of Winchester, there is a store sitting there available — ready, waiting and willing to be leased to the State at its current price which is still a loss proposition to its owner but he has a shopping center there and also it is quite near Massachusetts. I think

these will more than make up the money that will be spent and become revenue producers and I hope you will support the amendment.

Sen. BLAISDELL: I would like to rise in support of the amendment. Sen. Jacobson has spoken about New London very well and, of course, also Sen. Trowbridge for Winchester. I speak especially to Winchester. This is right on the Massachusetts border. There is a store available there. I think it is a necessity for the town and I would appreciate your supporting the amendment.

Adopted.

Sen. Bradley moved adoption of the following amendment.

#### AMENDMENT

Amend the bill by striking out section 102 and inserting in place thereof the following:

102 Appropriation for Court System Survey. There is hereby appropriated to the governor's commission on crime and delinquency the sum of two hundred thousand dollars for fiscal 1975. Said appropriation shall be for a grant to the supreme court for a court system survey and shall not be used for any other purpose. Within this appropriation the sum of \$20,000 is provided for the express purpose of satisfying matching requirements for LEAA grants allocated through the governor's commission on crime and delinquency. The sum hereby appropriated shall be a charge against federal funds in the amount of \$180,000 and a charge against general funds in the amount of \$20,000. If the federal funds received are less than estimated, the total appropriation, including the state matching funds, shall be reduced by the same proportion as the reduction of federal funds.

103 Effective Date. This act shall take effect upon its passage.

Sen. BRADLEY: My amendment is to add, in effect, \$20,000.00 to the budget for a court survey. This \$20,000.00 would be matched by an LEAA federal grant of \$180,000.00, so by spending \$20,000.00 in State funds, we can get a \$200,000.00 job done. This is something which the Supreme Court is very

interested in doing — to have a professional job done to study the entire court system in New Hampshire. I think this is a small amount of money for a very worthy thing. I think the only thing that can be said unfavorably about this request is that it comes late. I realize and apologize for that. I think it is simply due to the fact that the people who are interested in getting the grant money were a little slow on the up-take and how to get it into the legislative process. I do ask your support. I think it is something which, without doubt, the Judiciary Committees, if they had had a chance to look at it, would approve, as did the Bar Association and practically every judge in the State.

Sen. TROWBRIDGE: As some of you may know, I heard about this request about a week ago, I guess. My only reservation in putting it in the budget was the fact it has ramifications to the judiciary and I did not think anybody other than Finance had heard the request. I then tried to get the House Judiciary Committee and the Senate Judiciary Committee to give me some lead as to whether we were pulling a fast one or not. But, so long as it is exposed here in the full light of day and not sort of tucked into the budget without being seen, I fully support the amendment as offered by Sen. Bradley.

Sen. JACOBSON: As I understand the amendment, it is the Supreme Court that is to make the court survey?

Sen. BRADLEY: No. Actually what the Supreme Court will be doing — the Supreme Court will take the responsibility to see it is done, but it will be put out to bid. There are several professional agencies that do this sort of thing. The matter will be put out to bid and one of these agencies that do this kind of thing will do it. It will be done under the direction of the Supreme Court.

Sen. JACOBSON: What kind of agencies are these? Could you describe them very briefly?

Sen. BRADLEY: I really am not aware of what they are. I just have been told they exist and there are several, which I assume means more than two, that do this sort of thing. I really don't know who they are or what they are, but I guess I assume and I am confident that they do exist and the Supreme Court has confidence that some of them know what they are doing.

Sen. JACOBSON: There are none in this State that you know of?

Sen. BRADLEY: There are none in this State I know of.

Adopted.

Sen. Trowbridge moved adoption of the following amendment.

### AMENDMENT

Amend the bill by striking out section 103 and inserting in place thereof the following:

103 Transfer of Retirement System Members. Amend RSA 100-A:33-a (supp), as inserted by 1973, 265:1, by striking out in line five the word "April" and inserting in place thereof the following (May) so that said section, as amended, shall read as follows:

100-A:33-a Additional Transfer of Members. All employees of the other state retirement systems are hereby transferred to the New Hampshire retirement system as of June 30, 1974; provided, however, that no member of said other retirement systems shall be transferred if on or before May 1, 1974 said member shall notify the board of trustees, in writing, of his desire to remain in his original system. Prior to February 1, 1974 the board of trustees shall forward to each member a written explanation of the difference between the two systems, a copy of this act and a form on which to notify the board of his intent to remain in the predecessor system.

104 Effective Date. This act shall take effect upon its passage

Sen. TROWBRIDGE: This amendment is to be a new section in the final two sections — 103 and 104. We have a problem with the retirement system and HB 35, the policemen's retirement bill that has come up really only today. Although I knew about it, I did not know the extent of it. Last session, we passed a bill saying that every member of the Old Firemen and Police would automatically be transferred into the new Retirement System as of April 1, unless they opted out — unless they decided not to transfer in. HB 35, if it passes, perhaps would affect and be attractive to one-third of the Old

Police and Firemen; maybe even less than that. But at this point, the police and firemen are wondering what they should do knowing the April 1 deadline is coming but HB 35 is not yet either law or not law — it is in limbo; it is in Conference Committee. What I am doing by this amendment is to delay the timing from April 1 to May 1 so that the police and firemen who are in the old system can have the option of seeing if HB 35 passes and then make their election to either go in or not go in. I only hope you will support this amendment. I have confidence that the budget will pass in some form and that this is a good place to have this and it will keep them from being sort of in the middle here and wondering if they have to pay up new money. In HB 35, we will take care of anybody who does not come in in time. There will be an amendment to that as well. It is a very complicated timing problem and I hope you will support the amendment.

Sen. BLAISDELL: I rise in support of the amendment. I have a few people in my area who are really affected by this. I believe the May 1 date is satisfactory to everybody and I certainly hope you will support it.

Adopted.

Sen. FOLEY: I would like to speak to the Bill. The City of Portsmouth relies industrially on the Portsmouth-Kittery Naval Shipyard for work for our 25,000 inhabitants. We have some scattered small industries in various spots around the city. One portion of our city has approximately 1,000 inhabitants and is known as Atlantic Heights. It was built in World War I for homes for those who worked nearby in the building of ships for the war. It is connected to the city proper by one bridge. There are two industries in the area — New England Homes and a Tank Farm, which trucks oil to all parts of New Hampshire and Maine. Both states are dependent on this oil tank farm and we have 100 trucks a day going across the bridge into all parts of the two states. During the crisis, the number has increased even more.

In December of this year, the State of New Hampshire stated that the bridge was unsafe. The city is seeking a solution to the problem which involves not only itself, but the entire State of New Hampshire because of the tank farm. An access road over the railroad tracks has been declared to be the best

solution to the problem. A new bridge, the application for federal funding, the study, the surveys, etc., make building of a new bridge two to three years away. We need an emergency measure!

The State Public Works Department officials, the Governor, the members of the City Council and Mayor and legislators met at the bridge about two weeks ago to see if there was an answer to the problem. It was suggested that an amendment be put into the capital improvement bond issue for the money in the amount of \$125,000.00. After getting the amendment ready in the Legislative Services Office, and after waiting in the Senate Finance meeting, we discovered — the City Manager and other city officials and myself — that this was not the place for the project. It was not considered a capital improvement item.

So then, after consultation with the Governor and the Public Works Department, we attempted to put it into the Supplemental Budget. Mr. Whitaker, Commissioner of Public Works, was agreeable to it being in the budget, provided the money did not come out of his highway funds. He felt that this amount of money was too much to come out of his budget which had already been depleted in the last session.

The next place then was in the Supplemental Budget. The Chairman of the Finance Committee felt that we were starting a dangerous precedent if it went this route in the Committee as every town would have an emergency crisis and we would be in trouble. For this reason, it is not in the Supplemental Budget as presented to the Senate.

On last Monday evening, the City of Portsmouth voted to post the bridge. Officials from both of the industries have been notified of the posting which is occurring at the present moment. The effect on the trucks coming from the tank farm will be disastrous and they have already been up to Concord.

The City of Portsmouth feels that this industry is one which involves every person in the State of New Hampshire and that they should have some help in the instituting of the emergency by-pass over the tracks. The amount of money needed for the present emergency road is \$50,000.00 as the City is putting in the rest.

The Governor has been in contact with the City of Portsmouth officials and House legislators and called me into his office this morning and said that he would accept the placing of this money in the Supplemental Budget.

I am, therefore, asking that the Committee of Conference on the Supplemental Budget, HB 1, take this matter into serious consideration when they meet to decide the final outcome of the bill.

Ordered to Third Reading.

### SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended as to place HB 1 on Third Reading and Final Passage at this time.

Adopted.

### Third Reading and Final Passage

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

Adopted.

### TAKEN FROM TABLE

HB 21, relative to the duties of the state board of education and prohibiting the expenditure of public moneys in non-public schools unless said schools have program approval by the department of education.

Sen. S. SMITH: I hope that the Senate will take positive action on this bill and its amendments, the basic one which is to create the office of Chancellor at the University of New Hampshire. Senator Spanos had some questions which have been resolved. I think it should be clarified once more that the Chancellor would be appointed by the Trustees.

Sen. GREEN: I want to rise in support of this amendment. I do believe it will help in the overall organization of the University System and now is the appropriate time when there are going to be changes in the administration of the University,



it seems wise for us to make this move. I want to be recorded strongly in favor.

Question on adoption of Committee Amendment.

Adopted.      Ordered to Third Reading.

### COMMITTEE REPORTS

#### HB 36

permitting the sale of milk in three quart containers. Inexpedient to legislate. Sen. Sanborn for Public Health, Welfare and State Institutions.

Sen. SANBORN: This bill requested that milk companies be authorized to sell milk in three quart containers. Only one person ever appeared in favor of the bill. One company evidently has the capacity of providing a three quart container. None of the others could and most of the other milk companies do not favor the passage of this bill. In Executive Session, the Committee could not see any need for a three quart container. One piece of evidence that came up as I remember, they said you can make a three quart container out of pasteboard and if you go to a gallon it has to be plastic, which I think is kind of a poor excuse. I would think that with our present two quart containers and one quart containers, put the two together and with my mathematics, that makes three quarts and that should be satisfactory. I hope the Senate will support the action of the Committee.

Sen. GREEN: Does the bill require any producer of milk to actually use a three quart container?

Sen. SANBORN: No.

Sen. GREEN: Is it not true that the bill as it is just allows anyone who would like to use a three quart container to do so?

Sen. SANBORN: I believe that is the basis of it. We just could not see any need for it.

Sen. GREEN: Does the present statute state specifically what can and cannot be used?

Sen. SANBORN: I can't say for sure. I would not want to try and answer that right now.

Sen. Downing moved the words "ought to pass" be substituted for the Committee Report "inexpedient to legislate."

Sen. DOWNING: I am somewhat disturbed that the offering in HB 36 has been reduced to a one dealer situation. It just happens to be coincidental that the dealer in question, which happens to be Turner Dairy from Salem, is doing over their machinery — the machinery has just outlived its usefulness. They have to remachine and the latest machine on the market makes two, three and four quart containers. At the same time, Massachusetts and Rhode Island have approved three quart containers. The U. S. Department of Agriculture is in favor of this type of packaging. The State Department of Agriculture and Commissioner Townsend support this type of packaging and the Consumer Protection Division of the Attorney General's office has no objection to this type of packaging. The packaging is by far in the consumer's best interest as far as giving them the most product for the least amount of money. It is in the interest of the energy crisis in that you can take this three quart container and put in one trailer load what would take you 13 trailer loads of plastic gallon jugs. I don't understand the Committee's recommendation. It is my understanding that the hearing indicated positive support for the bill and that, if any negative feelings came, they have come over the telephone from other dealers throughout the State who are not remachining at this time and just cannot see the trees for the forest or the forest for the trees. They are frightened. The competition is here. If the three quart jug catches on, which it is going to, it is proven that people want to buy the gallon jug because the larger quantity they can get at a lower price. The three quart container, they can hold in a single hand. Because of its rectangular shape, they can stick it on the door of the refrigerator instead of inside. It is going to be in demand and the competition from south of the border is going to be selling it in this State if our people aren't prepared to produce and furnish it. I think to deny this is really a gross discrimination in the area of free enterprise. I think we almost have to protect the dealers from themselves from being shortsighted and thinking that this one dealer is representing a competition to them which they can't meet. This is not true. The competition is going to come from Massachusetts. Maine is considering it now. The competition is going to come from there. And they are going to find themselves behind the eight ball. I urge you to support "ought to pass" on this bill. As I say, the dealer would have already been doing it but after he was given the go ahead

by the Department of Agriculture, the Department of Agriculture then realized it was a legislative responsibility to set container size. And that is why it is before us. There was no problem whatsoever in the House and it seems the logical thing to do. I urge your support.

### INDEFINITE POSTPONEMENT

Sen. Lamontagne moved HB 36 be indefinitely postponed.

Sen. LAMONTAGNE: This is only because of one company who wants to manufacture this three quart container. As far as I am concerned, I feel that in New Hampshire we have a two quart container and, at the same time, it is going to stop people from out of state coming in here and putting up milk in three quart containers and this is one of the reasons I am in opposition. The people up my way do not want a three quart container and I am speaking about those who are running dairies. Why should we turn around at this time and approve a three quart container just for possibly a few?

Sen. DOWNING: Do you recognize that everything starts somewhere?

Sen. LAMONTAGNE: Yes. I am positive. That is why I tried to start the truck bill which you opposed.

Sen. DOWNING: Do you realize now that I can more thoroughly understand why you are opposing this bill?

Sen. LAMONTAGNE: It is not that reason at all. It is the people I represent and, therefore, I feel you are opening up the door to people from out of state to come into this State with a different container than the dairies of New Hampshire.

Sen. DOWNING: When you were wearing your truck hat the other day, you referred to the cost to the consumer because of the cost of fuel and you have to increase the length of trucks and the width of trucks to carry the payload. Now today, wearing a dairy hat, does the fact that you can carry in one trailer load enough containers that would normally take 13 trailer loads — if you approve this bill — does that affect your thinking any?

Sen. LAMONTAGNE: As far as transportation, it won't

mean a thing. Whether you have it in three quarts or two quarts, you will still have the same weight. As far as having more quantity in three quarts, there is no question about it. You would have an extra quart.

Sen. DOWNING: Maybe I did not make it clear. Could it be clear to you that we are talking about competition with a gallon container rather than a half gallon container?

Sen. LAMONTAGNE: I am aware of that.

Sen. DOWNING: Are you aware that packaging of a three quart container as against a plastic gallon container would take one-thirteenth of the space to transport?

Sen. LAMONTAGNE: I know what the argument is. The argument you are trying to say is that it is going to save paper and I don't believe it will.

Sen. DOWNING: Do you realize that what I am really trying to say is it is going to make the dairy people in New Hampshire more competitive with outside the state competition; that it is going to give the consumer more product for their money and nothing other than that?

Sen. LAMONTAGNE: I don't believe it will give the consumer any more for their money.

Sen. SPANOS: Senator Lamontagne, in your remarks you indicated that only one outfit is interested in this bill. I would like to know who that outfit is that you alluded to.

Sen. LAMONTAGNE: It is in reference to the manufacturer that is going to manufacture these three quart containers.

Sen. SPANOS: Is there a name for that manufacturer, do you know?

Sen. LAMONTAGNE: I have been told it is the International Paper Company.

Sen. GARDNER: I am very definitely opposed to this. The largest company in my area is very much opposed to it. He feels that, even though there might be a savings in packaging materials required, the necessity of additional machinery and packaging inventories will offset the alleged savings, resulting in no saving to the consumer. Total milk packaging costs to the industry will be increased, therefore, the increase will be passed along to the consumer.

Sen. PROVOST: Senator Downing, is there a law against packaging in three quarts?

Sen. DOWNING: Yes. Not that there is a law against it; there isn't a law providing for it. The State Department of Agriculture had given these people approval and they thought that was all that was necessary. In further looking into the law, they found out the Legislature has to O. K. and authorize the sizes of containers in this instance and that is why the bill is before us. The Commissioner of Agriculture testified in support of it.

Sen. S. SMITH: I rise in opposition to the pending motion and in favor of the bill. I don't know about one quart or two quart or three quart containers. I am no expert. But I would say I do know this. We, from time to time, place on the books and in the laws of this State bills which restrict the possibility of competition. I am sure the authors of this original legislation who put down one and two quart, pints and half gallons and gallons did not consider the fact that maybe some day somebody would invent a little better mousetrap that would make three quart containers. I think we have to adjust a bit to the times, that we do now have three quart containers and that a law of the State of New Hampshire should not be used to restrict somebody from developing their business in the way in which they think it will best serve them and their public. I hope that the Senate will go along with the bill, killing the Committee Report, killing the Motion to Indefinitely Postpone, so that we can have a little bit more free enterprise and so that the companies in this State might even have what is known commonly as home rule.

Sen. CLAVEAU: I rise in opposition to the pending Motion for the very reasons listed by Senator Smith. I see no reason why you can't manufacture three quarts. You do manufacture two quarts, one quarts and gallons. I think we would be discriminating against three. You know the old saying that two is company and three is a crowd. As a politician, I like crowds and I think we should defeat the pending motion.

Sen. JOHNSON: Senator Smith, what is the application of this to the maple syrup industry?

Sen. S. SMITH: I have no idea about the maple syrup industry.

Motion lost.

Question on adoption of Motion to Substitute.

### ROLL CALL

Roll Call requested by Senator Gardner. Seconded by Sen. Downing.

Yeas: Sens. S. Smith, Bradley, Green, Spanos, Blaisdell, Trowbridge, Porter, Claveau, Provost, Brown, Bossie, Downing, Preston and Foley.

Nays: Sens. Lamontagne, Poulsen, Gardner, Jacobson, McLaughlin, Ferdinando, Sanborn and Johnson.

Result: Yeas 14; Nays 8.

Motion carried. Ordered to Third Reading.

### ENROLLED BILLS REPORT

HB 27, relative to amending certain provisions of the Off Highway Recreational Vehicle Law, RSA 269-C.

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

Sen. Paul Provost  
*For The Committee*

Adopted.

### ENROLLED BILLS AMENDMENT

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states permitting broader cooperation in furnishing of municipal service and permitting cities and towns to appropriate money for group homes.

### AMENDMENT

Amend section 2 of said bill by striking out lines four, five and six and inserting in place thereof the following:

XV. The establishment or acquisition and maintenance and operation or contracting for the maintenance and operation

of any public transportation system and related facilities for the transportation of passengers.

Sen. Jacobson moved adoption of the amendment.

Sen. JACOBSON: This is an Enrolled Bills Committee amendment. It was a bill that was in the Executive Departments, Municipal & County Governments Committee jointly with Public Works. What the Enrolled Bills amendment does is simply put in what was intended to have been put in and that is the operation and maintenance of any mass transport system because it would be impossible to construct one and then not have the authority to operate and maintain it.

Adopted.

### RECONSIDERATION

Sen. Porter moved Reconsideration on HB 36.

Sen. PORTER: Sen. Gardner had earlier requested, when HB 36 was on Second Reading, an opportunity to offer an amendment to the bill. Then the bill was passed and ordered to Third Reading before Sen. Gardner had an opportunity to offer her amendment. As a courtesy to Sen. Gardner, I have moved reconsideration of HB 36 so she can have an opportunity to offer her amendment.

Sen. DOWNING: I support the motion as offered by Sen. Porter.

Adopted.

### Second Reading

HB 36, permitting the sale of milk in three quart containers.

Sen. Gardner moved adoption of an amendment.

Sen. GARDNER: All I want to do is amend it to read 180 days when it takes effect because it will give the people who have to invest in machinery to package the milk time to get it in order and not force it on them all at once if they want to do it.

Sen. DOWNING: I rise in opposition to the pending motion. I don't see where it is valid at all. The competition is here

and, if the purpose or part of the purpose of passing the bill is for New Hampshire to be able to respond to the competition, I think that they should be able to respond as they are capable of doing and, if one dealer can respond faster than another, or five can respond faster than ten, they should be able to respond as quickly as they can, in fairness to them. I urge you to defeat the pending motion and support the bill as it exists.

### ROLL CALL

Roll Call requested by Senator Lamontagne. Seconded by Senator Gardner.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Bradley, Jacobson, McLaughlin, Ferdinando, Sanborn and Brown.

Nays: Sens. S. Smith, Green, Spanos, Blaisdell, Trowbridge, Porter, Claveau, Provost, Bossie, Johnson, Downing, Preston and Foley.

Result: Yeas 9; Nays 13.

Motion lost.      Ordered to Third Reading.

### TAKEN FROM TABLE

Sen. Porter moved HB 37 be taken from the table.

Adopted.

### COMMITTEE REPORT

#### HB 37

to provide for the repeal of the law tending to prohibit hitchhiking. Ought to pass. Sen. Bradley for Judiciary.

Sen. PORTER: I move adoption of the Committee Report. I think it is time we solve the dilemma of this. I think we all are very familiar with the arguments. I will briefly summarize. We are not talking about hitchhiking on the turnpikes; we are talking about hitchhiking other than the turnpike roads and I would urge that each member search his conscience and either vote for the bill — vote the right way, vote for the bill — or search it and reach a different conclusion and vote against it. But let's do one thing or the other — either pass it or kill it. I personally would prefer to see us pass it on to the Governor so that he may have an opportunity to express his action with regard to the bill.



Sen. FERDINANDO: Could we have all the members present so that everybody will have an opportunity to vote on it.

## RECESS

## AFTER RECESS

## ROLL CALL

Roll Call requested by Sen. Blaisdell. Seconded by Sen. Johnson.

Yeas: Sens. S. Smith, Bradley, Green, Spanos, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau, Bossie, Preston and Foley.

Nays: Sens. Lamontagne, Poulsen, Gardner, Jacobson, Ferdinando, Sanborn, Provost, Brown, Johnson and Downing.

Result: Yeas 12; Nays 10.

Adopted.      Ordered to Third Reading.

## HB 13

repealing the termination date of RSA 357-B. Without recommendation. Sen. Claveau for Public Works and Transportation.

Sen. Poulsen moved the words "ought to pass" be substituted for the committee report "without recommendation."

Sen. POULSEN: This bill only eliminates the date of the automobile dealers bill of rights which we passed unanimously last time. Everyone is for it. The date line — I don't really know why it was in, but it was in to expire this next term. Because of it, there has been some trouble. There has been pressure from the manufacturers knowing there was a date line on the bill to crowd things a bit. The only objection to the bill as we have it now was from the Attorney General who objects to his function under the law of having to enforce it. Without his office enforcing it, the bill is badly crippled because there is no earthly way that a small Chrysler dealer in Littleton could sue the Chrysler Corporation. It would lose him all his money, all his time and he would not even get past the third appeal by that time probably. Under this bill we do have the clout of the Attorney General who can use criminal proceedings for infractions of the law as we now have it. This bill was unanimously

passed last year both in the Senate and in the House. It is a very necessary bill for the protection of automobile dealers who have been badly used by the manufacturers over the years. I think we all know that. Without it, with this crippling effect, I think the bill would be neutralized. I urge you all to vote for its passage as it is.

Sen. BRADLEY: Isn't it true that the Attorney General favored the adoption of this as a temporary bill only for the reason that it was temporary and that his involvement in it would be only on a temporary basis?

Sen. POULSEN: I have heard that. I don't know that for certain because he did not appear at any of the hearings that I knew about last year. At our own hearing, he did not show. I don't know what he did at the House hearing this year but, up until he showed at the Senate hearing of Public Works, was the first that I knew there was any objection on his part. In fact, if there is any objection, I would think the normal procedure would be to wait until the regular session and have it studied and then, if it is necessary, change the law in some way.

Sen. BRADLEY: Is there any other group of businessmen in the State of New Hampshire who can call upon the Attorney General to prosecute on their behalf in anything similar to this bill?

Sen. POULSEN: You, sir, are a lawyer and I am not, so you would be the best one to answer your own question. But I think that under the trust provisions, the antitrust laws, I think that possibly any group can be prosecuted for an antitrust violation. The same type of legislation is in effect and working fine in Vermont and Massachusetts and, I think, in Florida.

Sen. BOSSIE: During this session we passed what is known as a retail gasoline dealers bill of rights. This is similar to the automobile dealers bill of rights dealing with their companies. I don't know if you saw that, but Sen. Jacobson and I, who sponsored it, did not put in that the Attorney General would be the one to prosecute or to bring legal actions because of the fact we felt these people who are concerned enough, even though they are small, a group of them could get together — those who have similar problems — and bring legal action against these companies. Would you compare that to this bill here?

Sen. POULSEN: The comparison is clear but I don't know whether it holds all the way. It is possible that automobile dealers could band and bring suit but the pressure is against ordinarily one dealer and I don't see how one gas station operator could hope to sue Exxon, for instance. I think that they need the same type of protection. I think that they need a definite clout to make the thing work.

Sen. BOSSIE: I certainly concur with you in your statement when you say that they need the clout. The law gives them the clout. The only question we are concerned with is shall the Attorney General represent these private individuals or shall he not and shall they get their own lawyers. Is that not true?

Sen. POULSEN: I am sure he would only represent them in criminal cases, not in civil. I don't think the intent of this is that the Attorney General should sue for damages. That would be a private matter with the attorney of whatever dealer was in trouble. It would just be the infringement of the criminal aspect of it.

Sen. CLAVEAU: Is it true that the automobile dealer in a sense is also a consumer — a consumer that buys from foreign corporations?

Sen. POULSEN: He is not only a consumer, he is a captive consumer. He is a captive consumer in that he can only buy his product at one place. He is rigidly captivated in what he can purchase.

Sen. CLAVEAU: Isn't it true that if a certain association within the State made a purchase as an association from a dealer that he could, under the consumer protection law, get some protection from the Attorney General's office?

Sen. POULSEN: Absolutely correct. That is the thing I was alluding to earlier.

Sen. PORTER: As I understand it, the present law expires some time next year?

Sen. POULSEN: That is correct. I think it is July 1, 1975.

Sen. PORTER: And you are merely taking away this end date?

Sen. POULSEN: Right. That is exactly what we are doing.

## PARLIAMENTARY INQUIRY

Sen. SPANOS: I am hearing a great deal about an amendment that would water down the original version. Is there an amendment to be proposed, or what is the situation relative to the so-called AG's amendment?

Sen. BRADLEY: The Attorney General presented to the Committee an amendment to the bill which was not in appropriate form for handing out before the Senate. I have asked Legislative Services to put it into appropriate form and I expected to have the amendment here. My aide is up there right now getting it and I was about to ask to have this tabled until we receive the amendment if we were going to go too far, but I thought it would come momentarily.

## LAY ON TABLE

Sen. Porter moved HB 13 be laid on the table.

Adopted.

(Senate Vice President in Chair)

## HB 24

permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicles and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975. Without recommendation. Sen. Claveau for Public Works and Transportation.

Sen. Sanborn moved the words "ought to pass" be substituted for the Committee report "without recommendation."

Sen. SANBORN: This is probably one of the most complicated bills that has come up this session. It is somewhat similar to Topsy — it just grew. The best way to explain it is to use most of the verbiage that came out of the Committee hearing. The sponsor of the bill, Rep. Hamel, was the first to speak before us and he said: "I only filed the part concerning the motor vehicle plates. Rep. Wood wanted the part about boat plates so we combined the two. When the bill came back to me,

it had all this other stuff added on by the Rules Committee. Now this bill does five different things. (1) It allows decals on all motor vehicle license plates. The license plate law as now written and interpreted by the Attorney General calls the fee for a license a *service* fee and, therefore, we must issue new plates to collect the \$5.00. This bill changes the word to *special* fee so that we can allow decals. (2) The boat part allows a decal on the boat plate. (3) In the section on speed laws, as you know the Commissioner of Public Works and Highways has reduced the speed limit and he did so on the basis of safety and not for a national emergency. It was felt that the legality should be clarified. It must be renewed every twelve months. Paragraph 10 concerns local authority and paragraph 11 removes the minimum speed limit. (4) Then, we have something else. It says that the Highway Department does not have to go through the Procedures Act when they want to promulgate regulations concerning the RSA's listed on page 8 of this bill. (5) This part exempts the Fish and Game Department saying they do not have to publish in newspapers certain regulations."

I realize this is confusing but I hope it explains the bill somewhat.

Adopted.

Sen. Nixon moved adoption of the following amendment.

#### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

##### An Act

permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975; and providing certain free motor vehicle privileges to disabled veterans.

Amend the bill by striking out all after section 13 and inserting in place thereof the following:

14 Exemption for Town Permit. Amend RSA 260:28 (supp), as amended, by striking out said section and inserting in place thereof the following:

260:28 Exemption of Amputee and Other Disabled Veterans. No fee shall be charged for permit to register a motor vehicle owned by a veteran of world wars I or II, the Korean conflict, or the Vietnam conflict who because of being an amputee, paraplegic or having suffered loss or use of a limb from a service connected cause, as certified by the United States veterans administration, has received said motor vehicle from the United States government or cash settlement in lieu thereof; or because of a disability incurred in, or aggravated by such service, and upon satisfactory proof that the veteran is evaluated by the United States veterans administration to be totally and permanently disabled from such service connected disability or evaluated by them to be individually unemployable as a result of such service connected disability.

15 Exemption for State Registration Fee. Amend RSA 262:1, XIII (supp), as amended, by striking out said paragraph and inserting in place thereof the following:

XIII. No fee shall be charged for registering a motor vehicle owned by a veteran of world wars I or II, the Korean conflict, or the Vietnam conflict who, because of being an amputee, paraplegic or having suffered loss or use of a limb from a service connected cause, as certified by the United States veterans administration, has received said motor vehicle from the United States government, or cash settlement in lieu thereof, and no fee shall be charged for registering a motor vehicle with special equipment which said amputee, paraplegic or disabled veteran may acquire to replace one received from the United States government. The provisions of this paragraph shall apply to a veteran who, because of a disability incurred in, or aggravated by such service, and upon satisfactory proof that the veteran is evaluated by the United States veterans administration to be permanently and totally disabled from such service connected disability or evaluated by them to be individually unemployable as a result of such service connected disability.

16 Exemption from Operator's License Fee. Amend RSA 262:11, IV (supp), as amended, by striking out said paragraph and inserting in place thereof the following:

IV. No fee shall be charged for an operator's license issued to a disabled veteran who because of being an amputee or a paraplegic, has received a motor vehicle from the United States government. The provisions of this paragraph shall apply to a veteran who, because of a disability incurred in, or aggravated by such service, and upon satisfactory proof that the veteran is evaluated by the United States veterans administration to be permanently and totally disabled from such service connected disability or evaluated by them to be individually unemployable as a result of such service connected disability.

17 Free Parking Privilege. Amend RSA 249:4 (supp), as amended, by striking out said section and inserting in place thereof the following:

249:4 Free Parking. Any motor vehicle carrying special license plates issued to paraplegic, amputee or blind war veterans pursuant to RSA 260:17 and RSA 260:18, and any motor vehicle used for a purpose, or by a person, designated by a city council or town meeting, shall be allowed free parking time in any city or town so long as said motor vehicle is under the direct control of the owner. The provisions of this section shall apply to a veteran who, because of a disability incurred in, or aggravated by such service, and upon satisfactory proof that veteran is evaluated by the United States veterans administration to be permanently and totally disabled from such service connected disability or evaluated by them to be individually unemployable as a result of such service connected disability.

18 Special License Plates. Amend RSA 260:17 (supp), as amended, by striking out said section and inserting in place thereof the following:

260:17 Special License Plates for Motor Vehicles for Amputee, Paraplegic and Totally Disabled Veterans. The director shall furnish without charge for one motor vehicle owned by a veteran who because of being an amputee, or paraplegic, has received said motor vehicle from the United States government or whose vehicle is to replace one so received, or who is evaluated by the United States veterans administration to be permanently and totally disabled from such service connected disability or evaluated by them to be individually unemployable as a result of such service connected disability, a special license plate. The director shall determine the form, shape and

color of said special license plate and shall also determine the information to be contained thereon.

**19 Effective Date.**

I. Sections 1, 2, 3 and 4 of this act shall take effect on April 1, 1975.

II. Sections 5, 6, 7, 8 and 11 of this act shall take effect on January 1, 1975.

III. Sections 9, 10, 12 and 13 of this act shall take effect on passage.

IV. Sections 14, 15, 16, 17 and 18 of this act shall take effect on April 1, 1974.

Sen. NIXON: The amendment to HB 24 which is before the members of this Senate was submitted to the Committee through the courtesy of the Committee Chairman and apparently was rejected. I did not have an opportunity to speak to the Committee on the amendment, but I will speak to the Committee and to the Body at this time.

Chapter 320 of the Laws of 1973 enacted by this Body and signed into law last June attempted to provide that a disabled veteran would be granted free registration and plates by the Motor Vehicle Department if (1) he was evaluated by the Veterans Administration to be 100% disabled from a service connected disability and (2) if he was evaluated by the Veterans Administration to be "individually unemployable." As a result of that legislation, no veteran who is 100% totally disabled has received any plates without charge who was not previously eligible for them. Problems have arisen. There is a tremendous amount of confusion between the Veterans Administration on the one hand and the Motor Vehicle Division on the other about the precise wording in the letter from the Veterans Administration which would entitle a disabled veteran to free registration and plates. For example, the Veterans Administration's usual wording is "permanently and totally disabled" which means 100% disabled. However the Motor Vehicle Division does not feel it can accept that wording and it requires usually, or attempts to require, the VA to write a special second letter in accordance with the language of the statute — that is to say that the veteran is also "individually unemployable." As a result of that, veterans are being shuttled back and forth and



they do not understand the reason for the mix-up and they are being denied the plates which I think this Body intended them to have. The Veterans Administration does not include unemployability as a factor in rating permanently and totally disabled veterans, but again certification of that nature is required under the present law to get the free plates. Between 500 and 600 disabled veterans in New Hampshire — approximately 40% of whom, that is between 200 and 250 are classified as permanently and totally disabled by the Veterans Administration and, accordingly, I think, were intended to have the benefit of the free registration and plate situation. The amendment before you would merely rewrite the language of the existing law to correspond to the Veterans Administration language and would substitute the word “or” for the word “and” in respect to the totally and permanently disabled situation. If you will look at the part of the amendment which would relate to RSA 260:28, a veteran would be entitled to the free plates and registration upon satisfactory proof that he is evaluated by the United States Veterans Administration to be “totally and permanently disabled from such service connected disability” — totally and permanently disabled being the language the VA has always used and wants to use and won’t use anything else. Then the next key word after that is “or” evaluated by them to be individually unemployable as a result of such service connected disability. The present law has the word “and” where that word “or” is. I don’t know whether it results from personalities, whether it results from bureaucratic practices on the part of the VA or the Division of Motor Vehicles, but I do know this bill emanates from a complaint of a 100% totally disabled veteran who was a constituent of mine that one body won’t accept the language of the other and that, as a result, he, and apparently many other 100% disabled veterans, service connected, are not getting the registration and plate benefits that this Body entitled him to last June. That is the reason for the amendment — merely to clarify the language of the existing statute so that there is no doubt as between the VA on the one hand and the Commissioner of Motor Vehicles on the other that a veteran who has 100% service connected disability is entitled, in fact, to his plates and registration without cost to him.

I might say that this amendment was prepared with the advice and foreknowledge of Mr. James Sponzo who is an attorney with Veterans Administration and Mr. Clayton Osborne

of the Division of Motor Vehicles, these being the two fellows who are usually involved in attempting to straighten out these individual situations. That is the reason for the amendment and why I hope it will be attached to and made a part of HB 24, the housekeeping bill.

Sen. LAMONTAGNE: I rise in opposition to the pending motion to amend HB 24 and also any other amendments. The reason I am opposed to any amendment is because we had a meeting in the President's office which is part of the record, on the truck bill amendment and my first proposal was amending HB 24 to put the truck weight and tolerance there and I was asked to take this amendment off of HB 24. It was said in the office of the President that if any amendment is put on HB 24, this would mean this bill would be killed in the House. Now I don't care what kind of an amendment. If there is an amendment attached to HB 24, I don't see any difference at all because it is still going to have to go into the House for concurrence. It was hard to pass HB 24 as it came into the Senate. Rep. Hamel from the Transportation Committee is the Chairman and he definitely asked before this group that met in the President's office not to amend it. Personally, I felt that after it was explained to me and I could see the light that if this bill did go back, this bill here would die. There is some good in HB 24 and it is needed for the Public Works Department, as well as needed by the Motor Vehicle Department. Therefore, I urge the Senate not to adopt any amendment.

Sen. NIXON: Would you withdraw opposition to this amendment if you recalled, and I do so remind you, that the reason why the so-called truck weight amendment was not attached to HB 24 was that HB 24 being a bill sponsored by Rep. Stanley Hamel, Chairman of the House Transportation Committee and Rep. Hamel being opposed to the attempt to increase the weights, there was no chance that your truck weight amendment could have succeeded on that bill and, if I informed you and I hope you would believe me, that I have discussed this particular amendment I now offer with Rep. Hamel and I think I can fairly state he has no objections to this particular amendment. He wanted to be sure that Mr. Osborne of the Division of Motor Vehicles was in accord with the amendment and I subsequently obtained that assurance through my Administrative Assistant. So, would you withdraw your oppo-

sition to this proposed amendment with the knowledge that Rep. Hamel does not oppose it and Mr. Osborne of the Motor Vehicle Division does not oppose it. As a matter of fact, I think I can fairly state he thinks it would be a good idea because it would alleviate problems he has had in attempting to see that proper veterans were qualified to obtain the license and registration benefits intended by the law we passed last Spring.

Sen. LAMONTAGNE: I remember the question very clearly because I asked Sen. Nixon to withdraw his opposition and withdraw his amendment because I met with Rep. Hamel and he asked me to see about not having any amendments at all put on this bill. So, who is right?

Sen. NIXON: By way of an answer to your question, I will ask you a question — did you see Rep. Hamel after about 11 o'clock this morning?

Sen. LAMONTAGNE: I sure did. I saw him just about an hour ago.

Sen. FOLEY: I rise in support of this amendment. I have had some disabled veterans in our area come up with this problem and I have contacted the Adjudication Officer, Mr. Sponzo, of the VA, and also have talked with Clayton Osborne on this. I think there is a great deal of merit to it. It will help the disabled veterans and I feel it is a necessary amendment.

Sen. BLAISDELL: I rise in support of the amendment offered by Sen. Nixon. I would say, if I were the sponsor of HB 24, I would not be afraid that the House would take this amendment and defeat it. I would think it would help the passage of HB 24 and I strongly support it.

Sen. CLAVEAU: I rise in support of the amendment. I think it is a good amendment and, second, I don't think any one member of the House should decide what we are going to do in this Senate here. I think if we think an amendment is in the public interest, I think we should vote for it whether any individual member in the House likes it or not.

Sen. LAMONTAGNE: I am going to have to oppose the proposed amendment for the veterans because this means an additional 600 plates and it means 600 more *free* plates, and at the same time 600 more plates again that will have reference to parking areas where it will create a problem. And I would like

to say that there are many veterans who are against this type of legislation. In fact, they have opposed it when our poor friend Marcel Vachon tried to straighten out this matter before he died. But again, during that time it was confused and everything. But there are many veterans who are in opposition to it. Therefore, I would have to be in opposition to this proposed amendment.

Adopted.

Sen. Claveau moved adoption of the following amendment.

### AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

#### AN ACT

permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975; providing certain free motor vehicle privileges to disabled veterans; and naming Yankee Greyhound Highway.

Amend the bill by striking out all after section 18 and inserting in place thereof the following:

19 Naming Yankee Greyhound Highway. New Hampshire Route 107 is hereby named Yankee Greyhound Highway.

20 Effective Date.

I. Sections 1, 2, 3 and 4 of this act shall take effect on April 1, 1975.

II. Sections 5, 6, 7, 8 and 11 of this act shall take effect on January 1, 1975.

III. Sections 9, 10, 12 and 13 of this act shall take effect on passage.

IV. Sections 14, 15, 16, 17 and 18 of this act shall take effect on April 1, 1974.

V. Section 19 of this act shall take effect sixty days after passage.

Sen. CLAVEAU: This amendment gives a name to Route 107 in the State of New Hampshire — Yankee Greyhound Highway. The reason for this amendment is because there is only one major highway that brings traffic from Massachusetts to the Greyhound Track in New Hampshire and that is Interstate 95. You cannot put a sign for a private enterprise or a commercial enterprise on the highway. So, if the highway were named the Yankee Greyhound Highway, it would direct people from Massachusetts, who are spending money which adds to the \$2 million or more which was received from the greyhound track, to know where the track is.

Sen. TROWBRIDGE: I take it this is the same thing as the Rockingham Boulevard in Salem — the same type of reason for naming it?

Sen. CLAVEAU: Yes.

Sen. TROWBRIDGE: Is there any way you can indicate on this sign that it is going to have dogs on it or is just going to be a regular sign?

Sen. CLAVEAU: This would be left up to the Highway Department. I have checked with the Highway Department and was informed that Mr. Whitaker would be in favor of it.

Sen. PORTER: You are talking about Route 107 to Yankee Greyhound?

Sen. CLAVEAU: Yes.

Sen. PORTER: What will happen if Yankee Greyhound at Seabrook is sold or disposed of and they open up Yankee Greyhound in Nashua and they take them all away from Nashua?

Sen. CLAVEAU: I really don't know but I assume there probably would be another bill in the next session of the Legislature to change it back to 107.

Sen. PORTER: You are suggesting then that we will now have a sign in Nashua that says Yankee Greyhound down the

road which is Spit Brook Road to be taken away and called Yankee Greyhound Highway?

Sen. CLAVEAU: I really don't have any idea.

Sen. PORTER: I rise in opposition to the amendment as offered by Sen. Claveau. In response to my questions, his answers would indicate there is no plan being made for the future consideration for the move of Yankee Greyhound. It seems an affront to place some whole highway now with this new name. I would hope my fellow Senators would oppose the amendment.

Sen. CLAVEAU: In answer to Sen. Porter's comments, I really don't know what is planned by the Greyhound Racing Commission. But I do know that this is a money raising function for the State of New Hampshire and if we can get the prospective fans to the track without any misguiding, I think this means money in the Treasury.

Sen. DOWNING: Sen. Porter, is there a reason to suspect this is just a temporary thing — that there is a possibility that this installation, Yankee Greyhound, will not be there in the near future?

Sen. PORTER: To my understanding, Yankee Greyhound, the corporation, has made application in Nashua and it seems to me there is going to be a change in the very near future. It may be changed before the next legislative session and I think it is a poor thing to do — rename this and have all new signs made. In fact, who is going to pay for the signs — all these questions have not been answered. Why should we inflict further taxation when we are, in fact, losing commissions from the higher take from the dog track?

Sen. DOWNING: Sen. Claveau, there seems to be a legitimate question here that Yankee Greyhound may change location so the naming of this highway would be premature at this time.

Sen. CLAVEAU: The situation is different in Nashua. The major highway, which is Interstate 95, you are not able to put a sign directing the location of the race track. But on Route 3 coming out of Massachusetts, is not an interstate highway. The Everett Turnpike in that area can be posted to give the location of the track. That is why this won't be changed.

Sen. PORTER: But it is also true, is it not, that the Yankee Greyhound group is going into Nashua in the foreseeable future and, secondly, that the major amount of traffic feeding into that Nashua track will come up the turnpike, not necessarily up Route 3?

Sen. CLAVEAU: It is my understanding that the Greyhound Racing Commission will not issue two licenses to one person. That is a matter of record.

Sen. PORTER: Then, in fact, we will have Yankee Greyhound in Nashua and a sign pointing the other way?

Sen. CLAVEAU: If another track was issued, I don't think it would be called the Yankee Greyhound Track.

Sen. FERDINANDO: I support Sen. Claveau's amendment on the basis that we have done it for the other tracks and there is no reason we should not be able to do it to let people know where the track is.

#### PARLIAMENTARY INQUIRY

Sen. DOWNING: Is there any way we can find out how the people of Seabrook feel about this?

Sen. BROWN: I rise in support of Sen. Claveau's amendment. As he so stated, the federal government on the interstate highway it is against federal regulations to have the dog signs pointing to the track. They have to come down under federal law. So, in order for the patrons coming from the south to recognize what road to turn off to get to the track, if there was a sign there saying Yankee Greyhound Boulevard with dogs, that would be the way to go. There is no objection. I have discussed this. I was down to Seabrook a week ago Saturday talking to the Selectmen and the people down there and there is no objection to this from the people in the town of Seabrook.

Sen. BOSSIE: Sen. Porter had previously asked if Seabrook goes to Nashua, does the name stay the same in Seabrook when it should, in fact, be in Nashua?

Sen. CLAVEAU: I would think that probably they would operate under a different name. It might be the Nashua Greyhound Track, but I don't know. This has not happened yet so it is hard to say what they would do and not being in the

corporation, I don't know. I have been asked to sponsor this amendment and it has the approval of the Highway Department and they seem to feel the only way you can post the track legally is this way here.

Sen. Provost moved the previous question.

Adopted.

Amendment adopted.      Ordered to Third Reading.

### TAKEN FROM TABLE

Sen. Bradley moved HB 13 be taken from the table.

Adopted.

### Second Reading

HB 13, repealing the termination date of RSA 357-B.

Sen. Bradley moved adoption of an amendment.

Sen. BRADLEY: The effect of this amendment is quite simple. It simply removes from the so-called car dealers bill of rights the enforcement authority of the Attorney General and leaves the enforcement of the bill of rights up to the individual car dealers, individually or collectively, under civil law the same way that all other businessmen have to enforce their rights. We have already debated this to some extent before the amendment was made and I really only want to make two fairly simple points.

One is that I think this is a wrong precedent to continue. We aren't creating it because we in effect started it on a temporary basis during the regular session. But I think it is a wrong precedent to continue. We have a very ancient and good tradition, it seems to me, in our form of government of basically allowing individuals to protect themselves civilly except where the public interest is so overwhelming that we pay public funds to enforce the criminal law or to enforce something like the antitrust laws. It seems to me that we should not begin to go down the road of saying everyone is going to be protected by the government and that we are going to use public funds to protect the government and all their business dealings.

Secondly, there is a real legal problem which the Attorney General has pointed out, I think before the Committee, and



has pointed out to me, which I think is a valid one — that it may well even be unconstitutional to protect one group of businessmen by providing for enforcement when we don't do it for other groups of businessmen. Or, to put it another way, to make criminal the actions of the people this particular group of businessmen are dealing with when we don't make the actions of say the oil companies criminal who are dealing with the oil dealers. You have to be reasonably consistent in the way you apply criminal sanctions. You just can't pick out groups of people willy nilly and apply criminal sanctions against them, which I am afraid the bill, as presently written, does.

Sen. JACOBSON: I was a little confused. Is there in the present statutes a criminal involvement with regard to the relationship?

Sen. BRADLEY: Yes indeed. The present statute provides for both civil remedies and criminal penalties and makes violation of the act criminal and provides for criminal penalties and it is those criminal penalties which the Attorney General is charged to enforce against anyone who violates the act and presumably the manufacturers.

Sen. JACOBSON: Isn't it normative for the Attorney General's office to enforce criminal penalties?

Sen. BRADLEY: Yes indeed. And that was the problem I alluded to in my second point. What you have done under the bill is made conduct criminal with respect to automotive manufacturers which would not be criminal — the same type of conduct — by lots of other people who deal with New Hampshire businesses. So, you have not been reasonably consistent in defining criminal conduct and, therefore, it might well be unconstitutional under the equal protection concept.

Sen. JACOBSON: As I understand it, the criminal penalties evolve from alleged unfair competitive practices. Is that not correct?

Sen. BRADLEY: That is correct. The bill of rights lists a whole number of items of prohibited conduct and makes it both unlawful civilly and criminally. What the Attorney General's amendment and my amendment would do is we will say it is prohibited but it is only prohibited civilly and you would enforce it civilly. The Attorney General would not come in and send people to jail or have them fined for doing it.

Sen. JACOBSON: Under the federal statutes with regard to the Sherman Antitrust Act, the Clayton Antitrust Act and all the series that followed thereafter, who does the prosecuting?

Sen. BRADLEY: I think in all cases of the antitrust laws, it is both criminal prosecution, if available, and civil prosecution, if available, and in that regard it should be remembered that we are not changing any federal or state antitrust laws to the extent that we do have some state antitrust laws. And, to the extent that any of the manufacturers conduct constitutes antitrust violation and criminal violation under the antitrust act, the Attorney General will still have the responsibility to prosecute in those areas.

Sen. JACOBSON: Without knowing every detail therein and by surveying it now momentarily and trying to absorb it as quickly as possible, it seems to me that at least emblematically, it is akin to antitrust since it is a question of restraint of trade and unfair competition. Is that a fair assumption?

Sen. BRADLEY: I think that is the problem — that we term it an unfair method of competition and in effect set it up as if it were an antitrust but it really does not rise to an antitrust matter. It is really more like the kinds of dealings that every businessman has to deal with. It does not necessarily rise to antitrust. If it does rise to an antitrust violation, then it would be criminal under federal law and perhaps under state law and there would be prosecution available but the problem is that the conduct that is defined here is not criminal in other contexts — in other spheres of business enterprise. So we are saying in this sphere of business enterprise, we are going to have one type of crime and in another sphere of business enterprise, it is not criminal. Now, in the antitrust area, the antitrust laws apply to *everybody*.

Sen. JACOBSON: Obviously, this statute is limited to this state whereas federal antitrust laws or state antitrust legislation is modeled on other models and the federal one applies to all. But it seems to me, it is my understanding that the Attorney General's office of the United States, they in fact do have antitrust lawyers and these people, on complaint of some company who charges unfair competition the Attorney General's office does, in fact, pursue it. Is that not a correct statement?

Sen. BRADLEY: Unfair competition may not always be an

antitrust violation. It might be unfair competition which would come under other jurisdictions. I think the fair answer to your question is yes, the Attorney General's office federally does have a Division of Antitrust whose responsibility is to go out and enforce the antitrust laws in a criminal context and seek criminal penalties and even imprisonment where appropriate. Our Attorney General is saying, fine, if you define conduct properly as being so bad for everyone to do that it is like an antitrust violation then make it criminal and he will enforce it. But, don't select out one group of business enterprise — one sphere of business enterprise — and define certain activities within that sphere as criminal and expect him to enforce it because (1) there is a real problem with the equal justice part of it and (2) the way we define conduct here as unlawful is so broad that if the Attorney General had to enforce that kind of conduct in all business enterprises we would need an Attorney General's office which took all the lawyers in the State.

Sen. POULSEN: I rise in total opposition to this amendment which completely cuts the legs out of the bill. As far as the constitutionality of the bill, it has been tried in one state at least and found to be constitutional. As I have said earlier, it does work in several states at this time. As far as the criminality goes, this is a similar thing to the cases we read about a few year ago where people high up in Western Electric, Westinghouse and General Electric were charged with violations of antitrust. Of course, that was on an interstate business. This is purely intrastate. This is in New Hampshire that we are concerned with and we definitely need the offices of the Attorney General to enforce it. We are not asking for civil penalties. That is a lawyer matter. If a fellow feels he has been coerced into a wrong pricing or something like that, that is up to a local lawyer. But, if it is an infringement of what guidelines we have made for franchising these new automobiles, that is a criminal violation and has to be enforced criminally. I urge defeat of the amendment.

Sen. CLAVEAU: Is it not true that in the State of Florida the case was tested as to the constitutionality?

Sen. POULSEN: That is true. It was found to be constitutional.

Sen. CLAVEAU: Isn't it also true that the State of Massa-

chusetts and Vermont do have this present law on the books at this time?

Sen. POULSEN: As far as I know, it operates fine for the both of them.

Sen. CLAVEAU: Sen. Bradley, I assume that Dartmouth is a corporation. Is that correct?

Sen. BRADLEY: Yes.

Sen. CLAVEAU: If Dartmouth bought school equipment and was not satisfied, would they come under the protection of the Attorney General's Office — the Consumer Protection Division?

Sen. BRADLEY: They could make a complaint, just like anybody.

Sen. CLAVEAU: Would the Attorney General investigate the complaint? Would they take action on it?

Sen. BRADLEY: Yes. I think that is a very important point — that the Consumer Protection Division of the Attorney General's office is specifically precluded under the statute from representing the person who makes the complaint. For example, if Dartmouth College or just Joe Blow, feels he has been defrauded by some unlawful practice and complains to the Consumer Protection Division, the Attorney General's office can investigate and intervene and take action against the person complained against, but they cannot represent the complaining person to get his money back. If the complaining person wants to get his money back, they have to do that civilly and that is not so under this act. The Attorney General steps in and represents the individual party in a way which we don't allow the Attorney General to do under the Consumer Protection Division.

Sen. CLAVEAU: Assuming that the person who sold whatever material to Dartmouth College did not agree with the Attorney General, would he go into court? If the person that Dartmouth College complained about did not respond to the demand or the complaint of Dartmouth College wouldn't the State step in and enforce the law under the Consumer Protection?

Sen. BRADLEY: It certainly could under the Consumer

Protection Law. But if there were civil remedies — if Dartmouth felt it was owed money, it would have to go out and hire its own attorney to get its money back whereas, under this bill, the Attorney General would take on that function.

Sen. CLAVEAU: I am talking about the dealer purchasing commodities from the foreign corporation — I fail to see where there is a difference. If Dartmouth can bring a complaint against someone they have purchased items from and get the protection of the Attorney General's office or the response of the Attorney General's office, I don't see why a dealer who buys from a foreign corporation can't also get the same protection.

Sen. BRADLEY: I think the point is that this law requires the Attorney General to give protection beyond what anyone else in the State gets under any other law.

Sen. CLAVEAU: Do you know how many cases have been handled during this last year since this went into effect?

Sen. BRADLEY: No, I don't.

Sen. CLAVEAU: You don't know whether this is a terrific load on the Attorney General's office?

Sen. BRADLEY: I do know there has been one case in particular which is — and I can't quote the exact figure — equivalent to many tens of thousands of dollars in legal expenses.

Sen. CLAVEAU: I fail to see where this could involve the amount of money that was claimed by the Attorney General's office because many of the staff are on the government payroll.

Sen. BRADLEY: Your question is — is this going to be a load on the Attorney General's office. I think it is clear that it already has been and it will continue to be.

Sen. CLAVEAU: What I am asking is does he use the staff that is already on the payroll? He doesn't hire an additional attorney to handle it? Isn't it handled through his office with the staff that is already on the payroll?

Sen. BRADLEY: I think he does. But the point is that the Attorney General's office has already been given far more work than they can do and they are way behind in many, many areas. This is a very significant additional load. But I don't think that is the real reason to vote in favor of my amendment. I think

that is part of the picture, but I think on basic principles that this is the wrong way for us to go on a permanent basis.

SEN. POULSEN: You mentioned a large workload on the Attorney General's office. Do you consider one case a large workload?

SEN. BRADLEY: One case, if it is of the magnitude this one case was as described to me — yes. And I understand there are several other cases in the offing.

Sen. Trowbridge moved the previous question.

Adopted.

### ROLL CALL

Roll Call requested by Sen. Poulsen. Seconded by Sen. Porter.

Yeas: Sens. Lamontagne, Bradley, Trowbridge, Porter, McLaughlin, R. Smith, Bossie, Johnson, Foley and Spanos.

Nays: Sens. Poulsen, S. Smith, Gardner, Green, Jacobson, Blaisdell, Claveau, Ferdinando, Sanborn, Provost, Brown, Downing and Preston.

Result: Yeas 10; Nays 13.

Motion lost. Ordered to Third Reading.

### SUSPENSION OF RULES

Sen. Porter moved the Rules of the Senate be so far suspended as to permit HB 13, HB 21, HB 24, HB 36 and HB 37 to be read a third time by this resolution, all titles of bills be the same as adopted, and they be passed at the present time.

Adopted.

### Third Reading and Final Passage

HB 13, repealing the termination date of RSA 357-B.

HB 21, relative to the duties of the state board of education and prohibiting the expenditures of public moneys in non-public schools unless said schools have program approval by the department of education, supervisory union accounting of federal funds and establishing the office of chancellor of the university of New Hampshire system.

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975; providing certain free motor vehicle privileges to disabled veterans; and naming Yankee Greyhound Highway.

HB 36, permitting the sale of milk in three quart containers.

HB 37, to provide for the repeal of the law tending to prohibit hitchhiking.

Adopted.

## COMMITTEE REPORTS

### HB 34

relative to energy facility evaluation, citing, construction and operations and providing for a tax on refined petroleum products. Ought to pass with amendment. Sen. Porter for Resources and Environmental Control.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

### AN ACT

relative to energy facility evaluation, siting, construction and operations; providing for a tax on refined petroleum products; and establishing an energy facility study committee.

Amend RSA 162-H:4 as inserted by section 3 of the bill by striking out said section and inserting in place thereof the following:

162-H:4 State Permits.

I. No person may commence construction of an energy facility in this state or operate such a facility without a permit from the energy facility evaluation committee. Such a permit may not be transferred or assigned without the approval of the committee.

II. The committee shall incorporate in any permit issued hereunder such terms and conditions as may be specified to the committee by any of such other state agencies as have jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any permit hereunder if any of such other state agencies denies authorization for the proposed activity over which it has jurisdiction. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency. Notwithstanding any other provision of law, the application required by RSA 162-H:6 shall be in lieu of all applications otherwise requirable by any of such other state agencies. Further notwithstanding any other provision of law, the hearing conducted under RSA 162-H:8 shall be a joint hearing with such other state agencies and shall be in lieu of all hearings otherwise requirable by any of such other state agencies; provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of such other state agencies so to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter. Subject to RSA 162-H:6, III, but notwithstanding any other provision of law, each of such other state agencies shall make and submit to the committee a final decision on such parts of the application as relate to its jurisdiction not later than five months after it has received a copy of such parts in accordance with RSA 162-H:6, I. Notwithstanding any other provision of this section or this chapter, each of such other state agencies shall retain all of its powers and duties of enforcement.

Amend RSA 162-H:5, III, as inserted by section 3 of the bill by striking out said paragraph and inserting in place thereof the following:

III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a permit hereunder to such state agency or official represented on the committee as it deems appropriate, but, subject to RSA 162-H:4, it may not delegate the authority to hold hearings, issue permits, determine the terms and conditions of a permit, or enforce a permit. Any authorized representative or delegate



of the committee shall have a right of entry onto the premises of any part of the energy facility to ascertain if the facility is being constructed or operated in continuing compliance with the terms and conditions of the permit. During normal hours of business administration and on the premises of the facility such a representative or delegate shall also have a right to inspect such records of the permit-holder as are relevant to the terms or conditions of the permit.

Amend RSA 162-H:6, I, as inserted by section 3 of the bill, by striking out said paragraph and inserting in place thereof the following:

I. Each application hereunder shall contain sufficient information to satisfy the application requirements of each of such other state agencies as have jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility. Upon receipt of an application, the committee shall immediately make copies thereof, the cost of which making shall be borne by the applicant, and shall immediately forward to each of such other state agencies a copy of such parts of the application as are relevant to its jurisdiction. Upon receipt of such a copy, each of such other state agencies shall immediately conduct a preliminary review thereof to ascertain if the application contains sufficient information for its purposes. If the application does not contain sufficient information for the purposes of any of such other state agencies, that agency shall, in writing, immediately notify the committee of that fact and specify what information the applicant must supply; thereupon the committee shall provide the applicant with a copy of such notification and specification. Notwithstanding any other provision of law, for purposes of the time limitations imposed by RSA 162-H:10 on the committee and by RSA 162-H:4 on such other state agencies, any application made hereunder shall be deemed not received either by the committee or by any of such other state agencies if the applicant is seasonably notified that it has not supplied sufficient information for any of such other state agencies in accordance with this paragraph.

Amend RSA 162-H:6, II, as inserted by section 3 of the bill, by striking out the unnumbered concluding paragraph and inserting in place thereof the following:

Upon receipt of such an application, the committee shall immediately conduct a preliminary review thereof to ascertain if it contains sufficient information in accordance with this paragraph. If the application does not contain such sufficient information, the committee shall, in writing, immediately notify the applicant of that fact and specify what information the applicant must supply. Notwithstanding any other provision of law, for purposes of the time limitations imposed by RSA 162-H:10 on the committee and by RSA 162-H:4 on other state agencies, any application made hereunder shall be deemed not received either by the committee or by any of such other state agencies if the applicant is seasonably notified that it has not supplied sufficient information in accordance with this paragraph.

Amend RSA 162-H:7, as inserted by section 3 of the bill by striking out said section and inserting in place thereof the following:

162-H:7 Disclosure of Ownership.

I. Any application for a permit shall be signed and sworn to by the person or executive officer of the association or corporation making such application and shall contain the following information:

(a) Full name and address of the person, association or corporation;

(b) If any association, the names and residences of the members of the association;

(c) If a corporation, the name of the state under which it is incorporated with its principal place of business and the names and addresses of its directors, officers and stockholders;

(d) The location or locations where an applicant is to conduct his business;

(e) A statement of assets and liabilities of the applicant and other relevant financial information of such applicant;

II. Within four months after the close of each fiscal year of the applicant, it shall file with the committee a statement either that there has been no substantial change in any of the information in the application or a description of any such changes as have occurred.

Amend RSA 162-H:8, as inserted by section 3 of the bill, by striking out said section and inserting in place thereof the following:

162-H:8 Public Hearings; Rules.

I. Within sixty days after receipt of an application under RSA 162-H:6, the committee shall commence a public hearing on such application. The committee shall determine which part of the proposed facility is the principal part and shall conduct the first session of such public hearing in the county in which the principal part is proposed to be located. Not less than twenty-one days before such first session, the committee shall give public notice thereof and, within such notice, shall describe the proposed facility and the proposed sites for each major part thereof. The committee shall publish such notice in each newspaper having a general circulation in the affected area. Such first session shall be for public information on the proposed facility. The applicant shall present information to the committee and the public, but only committee members shall be permitted to ask questions of the applicant. Subsequent sessions of the hearing shall be in the nature of adversary proceedings. Every fourth subsequent session shall be held in such county; all other subsequent sessions may be held either in such county or in Concord, New Hampshire. The committee shall give adequate public notice of the time and place of each subsequent session. The committee shall consider and weigh all evidence presented at each session of the public hearing and any other material ancillary thereto.

II. The committee shall grant free access to records and reports in its files to members of the public during normal working hours and shall permit copies of such records and reports to be made by interested members of the public at their expense.

III. The committee may require such information from the applicant and state agencies and officials as it deems necessary to assist it in the conduct of hearings and in making any investigation or studies it may undertake and in the determination of the terms and conditions of any permit under consideration. The committee shall conduct such reasonable studies and investigations as it deems necessary or appropriate to carry out the purposes of this chapter and may employ consultants, legal

counsel and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee.

IV. The committee shall issue rules and regulations as may from time to time be required to carry out the provisions of this chapter.

Amend RSA 162-H:10, as inserted by section 3 of the bill, by striking out said section and inserting in place thereof the following:

162-H:10 Permit Deadline. Subject to RSA 162-H:6, III, a permit shall be either issued or denied by the committee within twelve months of the date of its receipt of the application and may contain such reasonable terms and conditions as it deems necessary and may provide for such reasonable monitoring procedures as may be necessary. Such determinations, when made, shall be final and in writing and subject only to the provisions of this chapter.

Amend RSA 162-H:11, II, as inserted by section 3 of the bill, by striking out said paragraph and inserting in place thereof the following:

II. This section shall not be construed to prevent any person from being heard or represented by counsel; provided, however, the committee may compel consolidation of representation for such persons as have, in the committee's reasonable judgment, substantially identical interests.

Amend RSA 162-H:12, as inserted by section 3 of the bill, by striking out said section and inserting in place thereof the following:

162-H:12 Judicial Review. Decisions made pursuant to this chapter by the energy facility evaluation committee or by any other state agency shall be reviewable in accordance with RSA 541.

Amend the bill by striking out section 4 and inserting in place thereof the following:

4 New Chapter. Amend RSA by inserting after chapter 78-B the following new chapter:

Chapter 78-C  
Refined Petroleum Products Tax

78-C:1 Definitions. Wherever used in this chapter:

I. "Barrel" shall mean a standard petroleum barrel containing forty-two gallons.

II. "Commissioner" means the commissioner of revenue administration.

III. "Refined petroleum products" includes motor oil, kerosene, residual oil, fuel oil, gasoline, petroleum asphalts, road oils and other distillates and petrochemicals produced from crude petroleum by any person in the state.

IV. "Taxable period" means a quarterly period of three months commencing on January first, April first, July first, and October first.

78-C:2 Refined Petroleum Products Tax.

I. A tax is hereby imposed upon the refining of refined petroleum products at the uniform rate of one-half of one percent on the fair market value per barrel of such products at the refinery site, to be paid by the refiner thereof.

II. The fair market value per barrel of such refined petroleum products shall be determined by the commissioner, who may, in making such determination, consider the usual selling price of such products at the refinery, the cost of the crude petroleum used, the cost of refining the same, and any other relevant evidence. Such determination shall be subject to review as provided in RSA 78-C:7.

III. The number of barrels produced shall be computed by tank tables showing one hundred percent of production and exact measurements of contents, or by meters or other measuring devices which accurately determine the volume of production or total products produced.

78-C:3 Returns and Declarations.

1. Every person engaged in the production of refined petroleum products during a taxable period shall, on or before the fifteenth day of the first month following the expiration of the taxable period, make a return to the commissioner under such regulations and in such form or manner as the commissioner may prescribe. Returns shall contain full data as required by the commissioner for correct computation of the

tax hereunder. All returns shall be signed by the taxpayer or by his authorized representative, subject to the pains and penalties of perjury.

II. At the same time the return is filed as required by paragraph I, every person who produces refined petroleum products shall, in addition, file a declaration of its estimated production of refined petroleum products and estimated tax thereon for the subsequent taxable period. Such estimated production of refined petroleum products and estimated tax thereon shall be at least equal to the production and tax on the return filed therewith, unless for good cause the commissioner permits the taxpayer to make a lesser estimate.

III. Any person who fails to file any return or declaration at the time prescribed in this section shall pay at the time the return or declaration is filed, in addition to any tax liability and without assessment or demand, a late filing fee of one hundred dollars for each day or fraction thereof which has elapsed between the prescribed filing date and the date of actual filing.

#### 78-C:4 Payment of Tax.

I. One-third of the taxpayer's estimated tax on refined petroleum products for the subsequent taxable period is due and payable at the time the taxpayer files the declaration required in RSA 78-C:3, II: one-third is due and payable one month thereafter; and one-third is due and payable two months thereafter. If the return required by RSA 78-C:3, I, shows an additional amount to be due, such additional amount is due and payable at the time the return is filed. If such return shows an overpayment of the tax due, the commissioner shall allow the taxpayer a credit against a subsequent payment or payments due, to the extent of the overpayment.

II. Any person who produces refined petroleum products who fails to make payment when due shall, in addition, pay a late payment charge equal to ten percent of the defaulted payment plus interest computed at the rate of one percent per month or fraction thereof from the prescribed payment date to the date payment is actually made. Such late payment charge and interest shall be in addition to any late filing fee which may be due under the provisions of RSA 78-C:3, III.

78-C:5 Taxpayer Records. Every producer of refined products shall:

I. Keep such records as may be necessary to determine the amount of its tax liability under this chapter.

II. Preserve such records for the period of three years or until any litigation or prosecution hereunder is finally determined.

III. Make such records available for inspection by the commissioner or his authorized agents, upon demand, at reasonable times during regular business hours. Whoever violates any of the provisions of this section shall be guilty of a misdemeanor, if a natural person, or guilty of a felony if any other person.

78-C:6 Failure to Make Returns; False Returns or Records. The following acts or omissions are unlawful:

I. Failing to make any return or declaration required by this chapter;

II. Making, causing to be made, or permitting to be made any false or fraudulent return or declaration or false statement in any return or declaration, with intent to defraud the state or to evade payment of the tax or any part of the tax imposed by this chapter;

III. Making, causing to be made, or permitting to be made any false entry in books, records or accounts with intent to defraud the state or to evade the payment of the tax or any part of the tax imposed by RSA 78-C or keeping, causing to be kept, or permitting to be kept more than one set of books, records or accounts with such intent.

Whoever violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

78-C:7 Adjustments; Procedure. The commissioner is empowered to determine whether there has been error in the assessment of the tax imposed by this chapter, in accordance with the following provisions:

I. The taxpayer may demand such a determination, in writing, within three years after the tax was due;

II. The commissioner may, on his own motion, undertake

such a determination upon written notice to the taxpayer given within three years after the tax was assessed and paid, whichever is later;

III. After hearing, if requested by the taxpayer, the commissioner shall affirm or shall increase or decrease the tax heretofore assessed. Any increase ordered by the commissioner shall be assessed against the taxpayer and shall carry ten percent interest from the date originally due. Any decrease ordered by the commissioner shall, with ten percent interest from the date the tax was paid, be credited against any unpaid tax then due from the taxpayer and any balance due the taxpayer shall be certified to the state treasurer who shall pay the balance to the taxpayer, but such credit and payment together may not exceed the amount of the tax originally paid.

78-C:8 Appeal. Within thirty days after notice of any adjustment or tax by the commissioner under RSA 78-C:7, a taxpayer may appeal the commissioner's determination either by written application to the board of taxation or by petition to the superior court in the county in which the taxpayer resides or if not a resident of the state, in the county where it has a place of business or resident agent. The board of taxation or the superior court, as the case may be, shall determine the correctness of the commissioner's action de novo.

#### 78-C:9 Administration.

I. This chapter shall be administered and enforced by the department of revenue administration. The commissioner as authorized by the governor and council, subject to personnel statutes, shall appoint such additional technical, clerical and other personnel as he shall deem necessary to carry out the provisions of this chapter.

II. The commissioner shall collect the taxes, interest, and penalties imposed under this chapter and shall pay them to the state treasurer.

III. The expenditures authorized by paragraph I shall be a charge against the moneys collected pursuant to this chapter; provided, however, that until such time as moneys received pursuant to this chapter equal the cost of administering the same, the expenditures shall be a charge against the general fund. The governor is authorized to draw his warrant for the



sums so authorized out of any money in the treasury not otherwise appropriated.

IV. The commissioner may make such reasonable rules and regulations as are necessary to carry out the provisions of this chapter. The commissioner may institute actions in the name of the state to recover any tax, interest on tax, or the penalties imposed by this chapter.

78-C:10 Powers of Commissioner. In the collection of the tax imposed by this chapter, the commissioner shall have all the powers granted to tax collectors under RSA 80 for the collection of taxes, and he shall have all the duties imposed upon tax collectors by RSA 80 that are applicable thereto.

78-C:11 Hearings. The commissioner may take the oath of any person in the course of any hearing authorized by this chapter. In connection with hearings, the commissioner and taxpayer shall have the power to compel the attendance of witnesses and the production of books, records, papers, vouchers, accounts or other documents. The commissioner and taxpayer may take the depositions of witnesses residing within or without the state pertaining to a matter under this chapter, in the same way as depositions of witnesses are taken in civil actions in the superior court. Fees of witnesses shall be the same as those allowed to witnesses in superior court, and in the case of witnesses summoned by the commissioner, such fees shall be considered as an expense of the administration of this chapter.

78-C:12 Form of Notice. Any notice required by this chapter to be given by the commissioner to a taxpayer shall be by certified mail and in the case of hearings, shall be given at least ten days before the date thereof.

5 Energy Facility Study Committee Established. There is hereby established a committee to study energy facilities and related activities. The study shall include but is not limited to energy facilities (including oil refineries) siting, pipeline, offshore loading and unloading and the regional community impact of energy facilities and related satellite petrochemical industries. Said committee shall consist of nine members appointed as follows: two senators appointed by the president of the senate, three representatives appointed by the speaker of the house, two members from the department of public works and highways, one member from the department of resources and

economic development and one member from the department of revenue administration, each department member shall be designated by their respective commissioner and approved by the governor. The committee shall elect one of its members as chairman. The legislative members of the committee shall be entitled to legislative mileage and the department representatives on the committee are authorized reimbursement for actual expenses in the performance of duties connected with committee functions. The committee is authorized and it is recommended that they consult with other New England states or any committee to define a New England plan for the orderly development of oil refinery siting and offshore unloading facility. Further studies should include consideration of the advantages and disadvantages of both private and publicly owned offshore loading facilities and the part that the Port Authority should play in such a facility. The committee shall study and investigate the taxing applicability to any oil refinery including any tax that is imposed. The committee is authorized to hold public hearings and to receive the support and cooperation of any state agency as may be required. The committee's recommendations and findings shall be made to the general court by January 1, 1975.

6 Effective Date. This act shall take effect upon its passage.

Sen. PORTER: Don't be alarmed by the large number of amendments which are suggested. The majority are changes in the existing bill of a technical nature.

There are three sets of amendments which are suggested for HB 34; the first being a group of technical revisions. Working with the Attorney General's office and he working with other interested parties and the committees in the House and in the Senate, he has brought in and suggested to the Committee a series of revisions — renumbering and rewording certain areas and hopefully making the bill more clear by reducing its redundancies and things of that nature. There was no substantial change in the law itself.

The second amendment which was adopted by the Committee dealt with the addition of an ad valorem tax which was offered by Representative Roberts and based upon the recent Supreme Court decision.

Thirdly, the Committee suggested — called an Energy

Facility Study Committee — will review and entertain many of the amendments which we had offered to us.

The bill had two public hearings by the Senate and at least one in the House. The Senate held public hearings in Portsmouth — well attended — and one in Concord — reasonably well attended. We had many, many amendments offered to the Committee. Many of the amendments were very good. However, a lot of them need refinement and many of them need study as to a determination of the interstate relationship, federal relationship and other state laws which are related. Some of the amendments were very poor. Some were what I would call “suicide” amendments meant to insure the defeat of the bill later on. Some of the amendments simply love it to death and they just look very good on the surface and you might think they would be good for the advancement of the bill, but in the Committee’s judgment, they would not help the bill. The Resources Committee was assisted by and joined with the Seacoast Delegation who looked at all these various amendments offered and reviewed them and tried to compose a balanced and a fair bill for all parties involved and provide provisions for an orderly development of a long range plan.

Commissioner Gilman has expressed concern that if HB 34 becomes law his Department’s jurisdiction over certain public lands might be subordinated to the authority of the Energy Facility Evaluation Committee established under HB 34. According to the Attorney General, no such subordination would occur. His jurisdiction over public land, as well as other state agencies’ jurisdiction, would be undiminished. This conclusion was supported by an Opinion of the Attorney General dated March, 1973 which I have available should anybody choose to review it and it was addressed to Commissioner Gilman. The Opinion dealt with a similar problem under a similar regulatory scheme, RSA 162f which is the Power Plant Siting, the Electric Power Plant and its transmission lines. The reasoning of that Opinion was that insofar as it relates to State agencies’ jurisdiction over public land, this would apply directly to HB 34.

I personally have thought long and hard about HB 34 and I think I would personally endorse a moratorium on refineries of 18 months or 12 months. That would be my own Fred Porter endorsement. However, if you try to look at it reasonably with all the other aspects of the needs of growth and energy needs

of the state and throughout the New England region, I think you have to review the proposal as advanced in HB 34 as a reasonable approach to the problem at hand. We should develop, however, some means of effective control and administration. I think it is the view of many that we need to have an engineering survey made of land use requirements and optimum siting to determine whether it be in New Hampshire inland or on the costal area or in other areas of New England. I feel it is not a viable position — a moratorium which might be advanced and I think we should work toward some reasonable control such as we bring in here.

This is probably the largest environmental bill brought in this session. It is an environmental bill. It is a land use bill. It resolves in integrated fashion as the front end of the bill talks about the environmental, economic and technical issues which are involved in the siting of energy facilities. It does provide procedures for the review, the approval, monitoring and enforcement of siting and compliance of the siting, the planning, the construction and the operation of energy facilities. I would be the last one to stand up here and say it is perfect because I know there will be questions which will certainly reveal one or two imperfections which exist.

The analysis of the bill which is given on the front part of the bill is fairly comprehensive and I am sure you have all read that and are well familiar with all the guidelines established and administrative procedures established.

What it does is provide for the establishment of an Energy Facility Committee to grant permits for oil refineries, basically. The procedures in these are adopted and are fashioned after the already tested electric power plant siting bill which passed a couple of years ago.

The first amendment, as I mentioned before, is a series of technical amendments — renumbering, etc. — that the Attorney General's office did suggest and that we adopted.

The second amendment provides for the creation of a new class of property — that of refined petroleum. The amendment was drafted by Representative Roberts with the help of Attorney Upton and others after the recent Supreme Court decision. I have a copy of that should any of the Senators care to review that. It provides for a tax on refined petroleum products at a

uniform rate of one-half of 1% of the fair market value. It was brought out in testimony that this type of an ad valorem tax applied to the refined product will yield roughly half of what was originally proposed of 5c a barrel tax which has been removed from the amended version of the text. We are now looking only at the refined petroleum product. It was estimated that from a 400,000 barrel a day refinery the tax return from a 5c a barrel would have been about \$5 million. From the ad valorem tax assessed here, one half of 1% of the refined product, it is expected to yield in the order of \$2½ million a year in operation. The tax portion of the bill is very simple. The major portion of that deals with the procedures that the Department of Revenue will use in enforcement, how they will arrive at a fair and reasonable market value, etc. The opposition to the tax amendment was voiced by one person — Mr. Douglas — who is the counsel for the Governor and he suggested the amendment be studied and he stated, however, and I quote him — “I am not saying we don’t need a tax” but he says there is no urgency. The Committee did, however, agree to recommend this for the consideration of the Senate at this time.

The third amendment establishes a Facility Study Committee. Some people will ask, I am sure, why we need another study committee. I think all of us as we view and try to understand the impact and the considerations of an oil refinery and energy facility development in the State, we start to wonder about tax considerations, we start wondering about front end permit, whether to recommend it as an amendment. In fact, I have grouped here together most of the amendments which were proposed to the Committee and there are a considerable number and some, as I have mentioned before, are of considerable weight. There are questions relative to the satellite petrochemical industries which might appear from the oil refinery. I have not had very many people come around and say, you ought to kill off the refinery — just a few. Most people feel that we should have an oil refinery — that we can handle it and handle it well environmentally. So all those other questions which relate to the oil refinery question need to be investigated and considered at greater length and greater time with more expertise than some of us possess.

So the last amendment provides for an Energy Facility Study Committee to make a report by the month of January next year. This committee — and I think the main part of this

gives it authorization to work and recommends that they consult with other New England states and try to join in on a community basis to look into an overall regional facility site and to review where the optimum offshore siting might be so that we might have a viable plan — develop an orderly plan to approach this large project of significant size in our community and in our State.

There are several different areas of study involved — the jurisdiction of the Port Authority; the issue of whether or not we should go public or private on the offshore loading and unloading facilities. All of these things the Committee should review and should look at. It is going to be a busy committee. It is going to be a difficult committee to serve on. I have asked for 9 people to serve within the committee — 3 members of the House; 2 members of the Senate; and 4 people who will hopefully bring in technical expertise. This particular aspect of it was suggested by Sen. Brown — for example, engineers from the Department of Public Works and Highways. We can bring in their technical expertise. The Tax Commission gentlemen who can advise us and provide us leads we might need to understand some of the aspects of the taxing situation, any taxes passed now or in the future. And, finally, a member from DRED who has been continuing his study in the past and will work with us.

Those are the amendments and the bill. I am sure you have some questions and I will try to answer them. I do urge your adoption of the bill.

Sen. TROWBRIDGE: Under a bill like this, which is like the site evaluation law, you have a setup whereby a person comes in and applies for a permit. The bill talks about the "permit applicant must give sufficient information." If he does not give sufficient information, he can be sent back. But nowhere there do I see in any of the legislation the grounds upon which the committee or commission could negate a permit, could simply say — no, this isn't right. The thrust of the whole legislative scheme here is that, if you supply enough information, if you give everything that the commission asks, that presumably the permit will be issued and that was the same on the Seabrook plant. And I am just wondering if there is any place in this legislation at all that the commission can say, even though you have given them all the information that was re-

quested in every which way — can they still say, no on environmental reasons, or whatever, the refinery should not be here?

Sen. PORTER: I would have to respond to that, Senator, that I see words in there like the “applicant must describe in detail the impact of each major” facility; that the applicant “will study and solve environmental problems”; that “he has adequate financial and technical and managerial ability to do the job” and as the committee reviews the application and is not satisfied, it turns it down. The language to me is clear. Certainly the committee has a chance to say — no, you cannot have it; your environmental impact statements do not meet the criteria which are established.

Sen. TROWBRIDGE: But there is no statutory section which says that if the commission, having heard all this, says that your environmental impact statement is not sufficient, it can deny. There is no such section saying denial; all it is phrased on is that it won't issue the permit perhaps or something like that. It has never been — and I wonder why there isn't a simple statement of that conclusion?

Sen. PORTER: Perhaps someone else can help me answer that question. I feel if the applicant is denied the permit, the application is denied, that is the same as telling him he can't do it.

Sen. TROWBRIDGE: But on the same basis, can you deny if he says — here, I have given you all the environmental impact — but there is no criteria for the commission to say that is not good enough and normally you need a criteria upon which public policy is based in order to deny a permit.

Sen. PRESTON: I would just like to refer to page 29, section 2. I think that might cover what you are suggesting. “Shall not issue any permit hereunder if any of said such other state agency denies authorization for the proposed activity over which it has jurisdiction.” This also relates to both state and federal laws or agencies.

Sen. TROWBRIDGE: Then, Sen. Preston, probably the same problem is true with the other state agencies like Water Resources Board. On what basis can they deny their permit? It is the same thing just a tier down, isn't it?

Sen. PRESTON: I would think of a case in point having

to do with the Fish and Game or the Corps of Engineers that if their environmental impact study showed sufficient damage to the environment and marine life, etc., it would appear to me that their denial based on such essential information would not allow the permit. I might be incorrect in stating that, but that is my interpretation.

Sen. TROWBRIDGE: Well, in answer to that, I agree with you. I know exactly what you are saying and I know this is the way it has been done. I am only inquiring why there isn't some positive section saying, if you don't come up to standards, you may be denied. Whereas, here it has always been sort of, if you don't add up enough, it just isn't issued. It is not really denied.

Sen. PRESTON: One more sentence to that — it says "the denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency."

Sen. LAMONTAGNE: I have a lot of faith and trust in you and I am going to ask you — could you tell us whether or not in the amendments now being proposed there is a 20 mile limit so far as for a refinery to locate near any shore?

Sen. PORTER: I am happy to respond that one of the amendments that was proposed dealt with the 20 mile requirement — that any new offshore loading would be 20 miles away. The Committee did not adopt that amendment and it is not in the present amendment.

Sen. SANBORN: I am interested in the tax provisions here. It mentions the tax on the refined product and we have heard considerable discussion on the taxing ability of the property by the local community. Even under this bill, is the local community able to tax the property and this refinery, etc. if it was established?

Sen. PORTER: My understanding would be that communities would be able to tax property, as usual. However, there is some question on machinery related to the refining process. I intend to present a floor amendment if this should be adopted which would include the tax credit for business profits tax of the refined products.

Sen. SANBORN: Back to the town?

Sen. PORTER: No. Should the refinery have to pay a business profits tax, they will get credit for the refined products



tax. That sounds confused a little bit, but I think you have gist of it.

Sen. FERDINANDO: On that tax situation, do other refineries have a tax such as this one here? Is this something new that is being presented?

Sen. PORTER: I don't know. There are no other refineries in the State as yet.

Sen. FERDINANDO: In other states, do they have a refinery tax such as this?

Sen. PORTER: I really can't answer that question. I don't know.

Sen. FERDINANDO: My question is would it not make more sense to get a refinery or two here in New Hampshire and then worry about taxing them rather than concern ourselves with taxing them out of here before we get one? Does that make sense?

Sen. PORTER: No.

Sen. JOHNSON: I rise in support of the Committee Report. There has been a lot of talk and a lot of hearings about the amendments and I think Sen. Porter has summed it up very well. This bill is about as good a piece of legislation as could be brought in. He mentioned one thing that I would like to stress. That is the fact that we have to be very careful about hanging amendments on this bill that could cause the death or suicide of the bill.

Sen. PRESTON: I would like to speak in support of this bill as presented by Sen. Porter. I think Sen. Porter is to be complimented for his efforts in putting this bill into the form it appears before us today. It is one of the most comprehensive to come before us this Session. Those of us in the Seacoast particularly, not serving on the Resources and Environmental Control Committee, appreciate the fact we were included as members for this particular bill and that a public hearing was held in Portsmouth at which several hundred citizens participated. HB 34 with its amendment hopefully provides the proper procedures and protection for the environmental, economical and sociological impact of a project of this magnitude.

Adopted.

Sen. Porter moved adoption of the following amendment.

#### AMENDMENT

Amend the bill by striking out section 6 and inserting in place thereof the following:

6 Credit under Business Profits Tax. Amend RSA 77-A:5 (supp) as inserted by 1970, 5:1, as amended, by inserting after paragraph III the following new paragraph:

III-a. Taxes paid pursuant to RSA 78-C, Refined Petroleum Products Tax.

7 Effective Date. This act shall take effect upon its passage.

Sen. PORTER: The amendment has been reviewed with the sponsor of the tax amendment. It was suggested to me, frankly, by a lobbyist from Olympic, by the name of Marshall Cobleigh, a constituent, who recommended that we keep everything open and out on the table, so that we would all know where it came from. What we are doing is being fair again to both sides — the person who pays the refined products tax should receive credit for this under this business profits tax, if he makes a profit and is able to pay it. I would urge your adoption of the amendment.

Adopted.

Sen. NIXON: I had intended to offer an amendment. However, there are not sufficient copies to distribute among the members of the Senate. Therefore, I and Sen. Foley will speak to the amendment and I will then have it reproduced and offered to the Committee of Conference, which obviously is going to be set up in respect to this bill.

The amendment would very simply have provided for a 20 mile limitation on the siting of deep water port facilities in respect to any oil refinery proposal. That is all it would have done, in other words, say that no deep water port facility could be established within 20 miles of the mainland. Such a requirement will give needed protection to our coastline, hedging against environmental and economic losses that are almost inevitable with a facility located within 20 miles off the coast, and yet allow for the feasible siting of a port facility for a refinery upon approval of the Site Evaluation Committee, and the communities involved.

John A. S. McGlennon, Region I Administrator of the U. S. Environmental Protection Agency, reiterated this fact in his policy statement on refineries and deep water ports in New England:

"Port facilities should be located some distance from the coast — between 10 and 25 miles — and in areas assuring freedom from navigational hazards, protection of unique environmental values, and having the capability to absorb or contain oil spills . . ."

The Isles of Shoals are approximately six miles off the coast and hence the amendment here proposed would allow a port within 14 miles of the islands.

Russell Train, Chairman of the Council on Environmental Quality last June before a Subcommittee of the House Committee on Public Works produced data which, when analyzed, clearly indicates a 20 mile minimum is necessary for New Hampshire.

This amendment does not usurp Federal jurisdiction. The State's recognized jurisdiction extends for three miles from the coast and this also includes a three mile radius beyond the Isles of Shoals. You will also recall talk in recent years of 200 mile State limits. We probably can make no claim to supervise the construction, off-loading and operation of the port as proposed in this amendment. This properly is and should be a Federal task. Rather, we will legitimately regulate the refinery complex that is *attached* to the port facility by providing the port must be 20 miles out.

The Federal government clearly has jurisdiction at 20 miles or beyond, for although the waters may be "international" the hazards to navigation and the use of the bottom of the continental shelf for anchoring the port facility and burying the pipe are not "international." Both the Secretary of the Army and the Secretary of the Interior have jurisdiction over these matters, and in certain circumstances so also will the Interstate Commerce Commission and the Federal Power Commission. The United States District Court has jurisdiction over the continental shelf in the event of dispute and to the extent that State law does not conflict with Federal law, so also would the laws of the State of New Hampshire. Federal officials have indicated a willingness and a desire to work with State govern-

ment in the regulation of off-shore ports. We will take a positive step with this amendment in bringing about such regulation.

The amendment is not designed to prohibit a port, but only to offer maximum protection to our coastline. Jeffrey's Ledge runs across the bottom at approximately this distance from shore and would allow siting of a facility; oil can be pumped efficiently for 35 miles; 20 miles allows pumping to the mainland where the next pumping station could be located on dry land at less expense.

Currents at 20 miles out tend to sweep spills away from the coast. Areas of Old Scantum and New Scantum, in addition to Jeffrey's Ledge, are relatively shallow areas easily adaptable either for a monobuoy unloading facility or a pivoting floating dock, which is essentially a large barge containing a large storage tank, crew quarters, and necessary pumping machinery. Should a "Tuned Sphere" be used it would require the deeper water which is found in Scantum Basin. Pipes can be laid at a depth of 600 feet now.

This amendment is a necessary first step to regulate the one part of the problem that has not received sufficient attention — the deep water port.

I might say in respect to what I have submitted in informal fashion, that I apologize to the Senate for not having seen to it that a sufficient number of copies were available for all to see and I apologize to the Senate that this amendment was not proposed through the Senators from the Seacoast Delegation. I learned just a few minutes ago that at least one of them had not been made acquainted with the amendment which so seriously affects the Seacoast and I think, frankly, this was an error of omission and certainly not one of intention. But I do suggest to the Senate that I know Sen. Foley wishes to speak to this amendment and, in order to save the time of the Senate I think the better place to submit the amendment under the time and circumstances available to us is to the Conference Committee.

Sen. LAMONTAGNE: Don't you feel that if your amendment is adopted — the 20 mile limit about which I questioned Sen. Porter a little while ago — it could automatically kill HB 34?

Sen. NIXON: No. I think the 20 mile protection situation is a valuable contribution to the protective aspects of any oil refinery proposal which does not jeopardize, in my judgment, the possibility of a refinery being established. I think that the people who build refineries could well go along with such an amendment and I think the people in the area where a refinery might be built would certainly appreciate the addition of the protection that the 20 mile limitation would provide.

Sen. LAMONTAGNE: Is there any way you could give some facts beyond the 20 miles — just about how deep this would be so far as in the ocean?

Sen. NIXON: I can give you these facts. I can give you the fact that the area that is beyond and in the vicinity of the 20 mile limitation is well within the 600 foot depth that pipelines can now economically and feasibly and engineering-wise be laid to transmit oil from an offshore facility to the shore.

Sen. LAMONTAGNE: How deep did you say?

Sen. NIXON: Down to 600 feet.

Sen. SANBORN: In part you have answered part of my question relative to the depth. You say 600 feet for the pipeline. However, east of the Isles of Shoals does not that water very hurriedly grow deeper?

Sen. NIXON: I understand so, but I also understand it does not exceed the 600 feet in depth. You can go out 20 miles and still not be beyond the 600 foot depth.

Sen. SANBORN: I think that you probably may be familiar with a chart that was sent out by Save Our Shores relative to a study made by a Professor Kingsbury of Cornell showing the supposed flow of anything put in the water at the Isles of Shoals coming into all the beaches all the way to Cape Ann. My question is this. If this is true, how come when the *Squalus* went down in a little over 300 feet just to the southeast of the Isles and 09 which went down in some 500 feet just to the east of the Isles, not one bit of oil from either one of those catastrophes ever came onto the beaches of Hampton, Rye, Cape Anne, etc.?

Sen. NIXON: I was four years old when the *Squalus* went down, I think, and I don't know the answer to your question.

Sen. TROWBRIDGE: Sen. Porter, talking about oil spills,

is there not a statute already that you had a hand in which provides for performance bonds for companies to provide money to reimburse the people affected by those spills?

Sen. PORTER: There is — Section 146 of a couple of years ago — the oil spills in public waters and it requires that the Water Supply and Pollution Control Commission shall set a schedule of bonding and it has defined such oil terminal facilities to mean any facility of any kind and related appurtenances located in or under the surface of any land or water including submerged land which is used or capable of being used for the purpose of transferring, processing or transporting oil, petroleum produces or their by-products. I believe this covers, at least initially, in this early stage of the game the bonding requirements.

Sen. FOLEY: I rise in support of Sen. Nixon's proposed amendment to the Committee of Conference for a 20 mile limit to any terminal superport off the shores of New Hampshire. First of all, we have the problem of spills if it were near a shore. Second, we have a hazardous coastline. The amendment is not designed to prohibit a port, but only to offer maximum protection to this coastline. Third, we want to protect a \$70 million industry — the New Hampshire beaches, the tourism, swimming and wildlife. And fourth, prevent the spills from damaging our estuary systems, our lobster and our fishing industries.

In addition to the above, I should like to emphasize that the U. S. Corps of Engineers in their Interim Study Report of June 1973 recommended that deep water ports be kept from 25 to 30 miles off the coast in the North Atlantic. We are making this only 20 miles. Furthermore, this contention is further strengthened by the Region I EPA Office in Boston, which goes along with the Report of the Corps of Engineers and recommends that all the New England states get together and plan any offshore terminals on a regional basis. Until the six state effort is realized, the proposed amendment will comply with the recommendations of the Corps of Engineers and the EPA Regional Office and the many people in the area who are concerned that superport measures might be taken before a New England plan is implemented.

In addition, federal officials have indicated a willingness and a desire to work with state government in the regulation of

offshore ports. We will take a positive step with this amendment in bringing about such regulation.

I would urge the Committee of Conference to consider carefully the adoption of this amendment.

Sen. LAMONTAGNE: I would have to oppose the proposed amendment whenever it is going to be introduced. I personally feel what this will mean to HB 34 is that this bill would be worthless and certainly it is not going to be workable because 20 miles out to sea is quite a distance. I know there are many people who are in opposition to an oil refinery, but I happen to be in favor of it. I would like to see one located in New Hampshire. The problem that is facing us right now with the shortage of fuel — look at our highways. There is nobody on them. The whole thing is it is because not only New Hampshire, but all states have been behind in getting some refineries into this State. Look at all the refineries that have been built in Canada and Canada does not face the problem we have. You would be surprised to see how many New Hampshire people and people from out of state are going to Canada because of them having fuel. Right now it is hurting the economy of this state. Now, if we have a chance to have a refinery, I think we should take all the possibilities and chances and make it as easy as we can. But, if you turn around and adopt this amendment — 20 miles — I have been told by people who understand this more than I do that this would automatically kill HB 34, which I am against. Therefore, I would have to oppose the amendment whenever it is proposed.

Sen. SANBORN: Sen. Foley, up until what were called the deep hole boats which were built in Portsmouth, is it not true that the waters just east of the Isles of Shoals were used as test waters by the submarine builders in Portsmouth because it exceeded 600 feet?

Sen. FOLEY: Yes.

Sen. PRESTON: I rise in support of Sen. Nixon's suggestion that this go to a Committee of Conference, but I want to state publicly that I share the concern expressed by Sen. Lamontagne. I have a feeling that all of the effort put into this bill by Sen. Porter and the Committee — into this very comprehensive piece of legislation that controls this project that has created so much debate in both Chambers — would be in

jeopardy as a result of this amendment, but I would support Sen. Nixon's move to let it go before a Committee of Conference for further discussion because of the serious concerns expressed.

### PARLIAMENTARY INQUIRY

Sen. BOSSIE: Would you advise as to legally what consideration a Committee of Conference may give any suggestion that President Nixon or any of us should offer to them.

CHAIR: As far as the Chair knows, President Nixon will attempt to offer the amendment to the Committee of Conference through the agents of the Senate or the House, hoping that they may adopt it. We have in the past instructed, through a vote of the Senate, the Committee of Conference conferees to actually take the message of the entire Senate to the conference and see if they can get the wishes of the Senate passed. But, as of this moment, all I understand it to mean is that Sen. Nixon and Sen. Foley will offer this to the Committee of Conference conferees and it has no binding effect of any kind.

Sen. BOSSIE: So, it would be a suggestion as would any other suggestion by a member of the Senate?

CHAIR: Precisely. That is my understanding.

Sen. Ferdinando moved adoption of an amendment.

Sen. FERDINANDO: I have a very simple amendment. This amendment strikes out the tax portion of the bill. That is all it does. The reason for it is I don't think we should be concerned about how we are going to tax refineries we don't have. I think the incentive should be to let us get a refinery and then let's worry about how we will tax it. I am afraid that this tax, which nobody seems to be too sure — other states have not applied a similar tax; we don't know whether that would be a discouraging factor in the margin of balance of whether a refinery would locate here in New Hampshire or elsewhere. So, rather than jeopardize all of the bill and all of the intent of having a refinery here, let's adopt this amendment.

Sen. BLAISDELL: If you were in business, wouldn't you like to know what you are going to have to pay when you come here?



Sen. FERDINANDO: That is the one factor you can say. There is some merit to what you are saying. But, on the other hand, I think we have to go a step further. There is no assurance — I don't think there is anybody in this room who could say it is a good tax or a bad tax. It may be overly excessive; it may be under rated. I think we should take a little time and analyze that.

Sen. BOSSIE: Is the gist of your amendment such that we could imply that you favor a tax, but it would be a question of let's see if we are going to have a refinery before we actually impose a tax. Would it also be satisfactory to say that an oil company who does run an oil refinery could reasonably expect a tax?

Sen. FERDINANDO: You are so right.

Sen. FOLEY: I would like to say I dread the day when we ever have a refinery and the Legislature meets to decide on how much the tax will be after they come here. We have so many lobbyists now, we couldn't get in the door.

Sen. PORTER: I rise in opposition to the proposed amendment. This is the first word we have heard from Sen. Ferdinando at the hearing or anywhere else. The Committee looked at this very favorably and recommends adoption of the bill without this amendment.

Sen. NIXON: Isn't it true that when the Olympic presentation first came here to New Hampshire there were reams of newspaper publicity about how much money New Hampshire would receive at the rate of 5c a barrel and a 400,000 barrel a day production and the great benefit to the revenue and income New Hampshire would derive from the Olympic Refinery if we would consent to its establishment?

Sen. FERDINANDO: I think we are talking about some figures that were thrown at us — some 400,000 barrels a day and \$2½ million. I think these are figures that nobody can really substantiate. Is this a reasonable amount of taxation? Is it an excessive amount of taxation? What are the other states doing? What are they getting? These are the questions which have not been answered. So, rather than take a factor that has been thrown at the Committee with no substantiation — is this right or is this wrong — I say let's get it out of there. And then

let's get the refinery which will employ a lot of people and let's get the local community to get the taxes and then let's worry about how we are going to tax it. But let's get one first. This may be just the formula that may be wrong. If it is right, it is fine, but if it is wrong, we are making a mistake by not rejecting it right now.

Sen. NIXON: I appreciate your answer. Do I read into your answer that if your amendment is not adopted, then HB 34 will be vetoed?

Sen. FERDINANDO: I have no indication — I did not discuss this with anybody. I do not know how the Governor feels on this. This is my personal observation. If we want a refinery, let's not worry about how we are going to tax. Let's get the refinery in here and that is the first thing.

Sen. Johnson moved the previous question.

Adopted.

Motion lost.

Sen. Jacobson moved adoption of the following amendment.

#### AMENDMENT

Amend the bill by striking out all after section 6 and inserting in place thereof the following:

7 Establishing an Interim Committee to Study Oil Companies and Other Energy Suppliers. An interim study committee is hereby established to study the policies of major oil companies and other energy suppliers relating to pricing, interest charges and credit cards. The committee shall consist of three members of the senate chosen by the president of the senate and three members of the house of representatives chosen by the speaker of the house. The committee shall elect a chairman from among its members. Committee members shall receive legislative mileage. In matters material and relevant to its study, the committee may subpoena witnesses and compel their attendance and may require the production of books, papers and documents. The committee shall submit its findings and recommendations, together with a draft of any proposed legislation, to the 1975 regular session of the General Court no later than the last Wednesday of December 1974.

8 Effective Date. This act shall take effect upon its passage.

Sen. JACOBSON: I move adoption of an amendment which is the original SJR 2.

The House the other day voted "inexpedient to legislate" on SJR 2 which is to establish an Energy Commission to look into the problems of energy, to look into the problems of credit cards, to look into the problems of pricing and to generally have a look at what is happening to such things as gasoline, oil and electricity. I listened to the debate on the bill and one objection was that Congress has never been able to do anything with the oil companies, how do you expect New Hampshire to do anything with the oil companies? I say, let's have a try. We do not know until we have tried. It may be that New Hampshire might be able to do something. Secondly, it was said that the only solution to the problem of the oil companies is to nationalize the oil companies. Well, I think we will be a long way before we ever nationalize the oil companies. Thirdly, it was said this is a junket commission. Now, as far as I know of all the other sponsors of the legislation it was never planned for any junket any place and I can't understand how that could ever become an issue. The fourth one was with respect to the credit card position that, if everybody paid cash, we would not have to worry about credit. That would put me in a hole because I have to buy on credit all the time and I think some 60% or 70% of the people in New Hampshire have to buy on credit. There was never any solid reason that was offered.

On the other side of the question, I want you to know that the oil companies were particularly concerned about this piece of legislation and they wanted it gutted to the extent that the subpoena power was taken out. If they are concerned about it, I think it has some kind of importance. They were concerned both about the credit, about pricing and about distribution. I think that the Legislature of New Hampshire, even if it only becomes a symbolic gesture, is concerned about the consumer of energy. If nothing else happens, we are on record in favor of finding out whatever we can find out. We may find out only one thing that may save somebody thousands of dollars throughout the State of New Hampshire.

Sen. PORTER: You and your other fine sponsors of SJR 2

are to be commended for bringing it in. Would you not think it might be possible — well, first I might ask, was that bill indefinitely postponed in the House?

Sen. JACOBSON: No, it was inexpedient to legislate.

Sen. PORTER: Would you agree that most likely the House would not concur with HB 34 when it gets there and we will have a Committee of Conference?

Sen. JACOBSON: I can't predict that because the House leadership yesterday predicted they would concur with HB 2 and the fact of the case is that they did not. I have no way of predicting what the House will do.

Sen. PORTER: Assuming they did non-concur and request a Committee of Conference — I am in accord with your desire to amend the bill — but do you not agree that we could in a Committee of Conference amend the Facilities Committee to also reflect these very same things and it would still accomplish the same end — if I worked with you to do this particular thing?

Sen. JACOBSON: My response would be that, if your assumption is correct, then we could adopt this amendment and then you could come to some concurrent agreement. They would at least have the voice of the Senate with respect to this Commission. I hold no brief at all for any particular size. I only hold a brief for doing something with the problems that have been raised with energy.

Sen. PRESTON: Would you be willing to withdraw your amendment if you got a vote of confidence from the Senate as to Sen. Porter's suggestion to approach the Committee of Conference on the basis of incorporating this into its study — in fear of jeopardizing this HB 34?

Sen. JACOBSON: I understand your question and, as far as I personally am concerned, I don't know how we could do this. You mean by having a Resolution — that if I withdraw the amendment, we have a Resolution saying we support the concept of SJR 2, is that what you are saying.

Sen. PRESTON: That is my concern — the method or the tactic that we use. We might discuss it in Committee of Conference but, I think any future amendments could jeopardize all the effort that has been put into this bill.

Sen. JACOBSON: I would have to give that some thought. I will wait until my other sponsor speaks.

Sen. BOSSIE: I urge the Senate adopt the amendment as proposed by Sen. Jacobson. SJR 2 passed the Senate quite overwhelmingly. Perhaps there were a few dissenting votes. It got to the House and it started out as a fiasco and it ended a fiasco. First of all, they set up a hearing which I certainly attended but there was another bill at the same time so it never was heard until the day after, which was not a legislative day so, of course, none of the sponsors could be there even though we did talk to some of the Committee members. It gets on the House floor yesterday and I would not believe the amount of misinformation and non-information that was handed out to the members of the House — things such as deleting the subpoena powers; question on the floor as to why should this committee need subpoena powers as if it were some sort of a witch hunt. The President of the Senate reappointed to this Committee the same number as in the Senate, and believe me, I assure you we are the ones that did most of the work in the Senate. I was Chairman of it; there were six of seven members — four from the Senate; four from the House — the Senate members showed up almost all the time and from the House only one Committee member would show up. So, they had no idea.

Also, one of the members on the Committee was out to kill the bill for some reason I cannot understand. So they kill the subpoena power, saying that it is some sort of a witch hunt; Congress can't do it; how could we do it? Basically, the facts that we wanted to find out are the problems involving the people of New Hampshire. We have no great consideration for what the problems are in California and Montana. We want to know what is causing the problem here in New Hampshire. How are New Hampshire consumers gouged? We could get this material from subpoena powers and this is what we want and, hopefully, we could have gotten it from local people. Then they tacked on an amendment which would have sent this to the Appropriations Committee in the House, telling us that we needed staff; we needed all sorts of staff to advise us about subpoena powers. If that was a problem, I would have made them myself. We don't need a great staff from the Attorney General's office to figure this out. What we want are the facts

and we have enough intelligence or sufficient intelligence any-way to figure it out.

There was also misinformation given to many of the people in the House who were arguing about an oil refinery. Somehow an oil refinery got into this bill. I can't understand it. It is just impossible to believe. The out-of-state travel, as Sen. Jacobson mentioned, was just unbelievable — they thought we were going on junkets. Any junkets that have been going on around here, I have not been on any and neither have any of the members of my Committee. Most of the junkets are out of the House. I don't know who went on junkets and I don't really care. But this Committee wanted to find out the facts and I ask you to adopt this amendment.

### ROLL CALL

Roll Call requested by Sen. Bossie. Seconded by Sen. Jacobson.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Nixon, Blaisdell, Trowbridge, Porter, Claveau, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Preston, Foley and Spanos.

Nays: Sen. R. Smith.

Result: Yeas 21; Nays 1.

Amendment adopted.

Sen. Nixon moved adoption of the following amendment.

### AMENDMENT

Amend RSA 162-H:4 as inserted by section 3 of the bill by inserting after paragraph II the following new paragraph:

III. No person shall be granted a permit hereunder when the application submitted proposes an offshore loading or unloading facility within twenty (20) miles of the mainland.

Sen. NIXON: This is the amendment which I previously explained. This is the 20 mile limit amendment. The reason I indicated to the Senate earlier that I would offer this amendment to the Conference Committee was (1) in the first instance the amendment was not printed and distributed in sufficient

copies; and (2) I was respectful and appreciative of the sentiments voiced by many members of this Senate that to offer any additional amendment to HB 34 than those coming out of the Committee would jeopardize the merits of the bill and its opportunity to be passed in any form. I think all of those arguments have now gone out the window — if they ever existed — with the adoption of Sen. Jacobson's amendment which I supported in principle and for which I also voted. So, I would now ask the consideration of my fellow Senators which we just extended to Sen. Jacobson to give the 20 mile limit an opportunity to be part of the bill, part of the formal action of the Senate in connection with the Conference Committee consideration of this bill. I ask your support of the 20 mile limit amendment to the bill.

Sen. PORTER: I wish to rise in support of the amendment proposed by Sen. Nixon. Reviewing the chart relative to the depth in the areas which are under discussion does not indicate any depth problem whatsoever — they are here and available for anybody to review. It is a worthy amendment. It is within the policy and guidelines suggested by EPA and I recommend we adopt the amendment for the consideration of the Committee of Conference.

Sen. LAMONTAGNE: Personally I think there is a difference in the amendment now being proposed and, as much as I hate to oppose Sen. Nixon, I am in a position right now where I have to oppose him because this would automatically kill HB 34. I certainly would not want to see this bill killed. As far as the amendment we have just adopted from Sen. Jacobson, I voted as a matter of senatorial courtesy and I don't feel that his amendment would hurt the bill. But there is a difference when you are talking about going out 20 miles at sea — and I feel sorry. Sen. Nixon, I have to oppose you.

Sen. BLAISDELL: Sen. Lamontagne, how can you say that the amendment Sen. Jacobson put in will not hurt the bill when they have already killed it over in the House?

Sen. LAMONTAGNE: As far as I am concerned, the amendment which we just adopted right now is going to a Committee of Conference with no question at all. But I feel the amendment saying 20 miles at sea has already been reviewed by the Committee and it has been turned down by the Committee.

Sen. JACOBSON: When I first heard about this via a telephone call last night from somebody down on the seacoast, I wondered a great deal about this amendment and I still have some questions about it — whether it is feasible; whether it is the right thing to do or not. However, I think it ought to be a subject for the Committee of Conference since it is a point of discussion that is of serious concern and I believe they are going to have at least a week to research this matter and come to some kind of conclusion. I hope when the Committee of Conference report comes back, they will have solid information as to its complexities. I also hope they will take testimony from the opposite view as well as from the pro view with respect to this matter.

Sen. SANBORN: Sen. Porter, in your earlier testimony and report on this bill, you made mention of the fact that an amendment for the 20 mile limit had been before your Committee and the Committee had rejected it. Could you tell us why the Committee rejected this at that time and now you, as a member of the Committee, are supporting it?

Sen. PORTER: The entire Committee received the amendment — I believe it was in Portsmouth from one of the people giving testimony. The various members of the Committee reviewed it and it was just that with all the great group of amendments we had presented to us — probably in excess of 20 to 25 amendments — there was not sufficient time to research all of them and understand them. I personally have looked at it further and I spoke for myself — as the Senator from District 12. I am not speaking for the entire Committee. I personally endorse it. I don't think it will, in any way, curtail or say there will be no refinery. I don't believe that at all. That was not the purpose of the amendment and I think it would be ill advised to believe that.

Adopted.      Ordered to Third Reading.

### RECONSIDERATION

Sen. Porter moved Reconsideration of HB 34.

Motion lost.

(Senate President in Chair)



HOUSE MESSAGES  
HOUSE CONCURRENCE IN SENATE  
AMENDMENT

HB 17, increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor.

HOUSE NON-CONCURRENCE IN SENATE  
AMENDMENTS  
REQUESTS FOR COMMITTEES  
OF CONFERENCE

Sen. Lamontagne moved the Senate accede to the request of the House for a Committee of Conference on:

HB 5, relative to the office of energy administrator.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Mann, Bigelow, Mattice, Cushman and Hildreth.

The President appointed as members of said Committee on the part of the Senate: Sens. Poulsen, Lamontagne and Green.

Sen. Porter moved the Senate accede to the request of the House for a Committee of Conference on:

HB 11, to increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric aids at the New Hampshire Hospital and making appropriations therefor.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. McLane, Gallen, Weeks, Kidder and Belcourt.

The President appointed as members of said Committee on the part of the Senate: Sens. Trowbridge, Green and Provost.

Sen. Downing moved the Senate accede to the request of the House for a Committee of Conference on:

HB 29, relative to tuition payments for handicapped chil-

dren; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for education and other expenses in public institutions.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. French, Raymond, Rock, Chambers and Cotton.

The President appointed as members of said Committee on the part of the Senate: Sens. Green, S. Smith and Downing.

Sen. Preston moved the Senate accede to the request of the House for a Committee of Conference on:

HB 18, requiring local approval prior to approval of site plans for oil refineries.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Hanson, Ethier, Spirou, Benton and M. Townsend.

The President appointed as members of said Committee on the part of the Senate: Sens. Porter, Johnson and Preston.

Sen. Foley moved the Senate accede to the request of the House for a Committee of Conference on:

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Drake, Ferguson, Scamman, McGinness, and J. Richardson.

The President appointed as members of said Committee on the part of the Senate: Sens. Trowbridge, Green and Foley.

Sen. Blaisdell moved the Senate accede to the request of the House for a Committee of Conference on:

HB 2, making appropriations for capital improvements.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Mann, Raymond, J. Goff, Daniels and Belair.

The President appointed as members of said Committee on the part of the Senate: Sens. Trowbridge, Sanborn and Blaisdell.

Sen. Gardner moved the Senate accede to the request of the House for a Committee of Conference on:

HB 33, relative to the Winnepesaukee River Basin Control; and providing for continuation of the study committee on the water supply and pollution control commission.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Claffin, Ladd, Tilton, Oleson and Harriman.

The President appointed as members of said Committee on the part of the Senate: Sens. Porter, Gardner and Claveau.

Sen. Green moved the Senate accede to the request of the House for a Committee of Conference on:

HB 35, providing for twenty years retirement for members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Drake, Coutermarsh, Weeks, Roberts and Roderick O'Connor.

The President appointed as members of said Committee on the part of the Senate: Sens. Trowbridge, Green and Blaisdell.

#### REQUEST FOR CONCURRENCE IN HOUSE AMENDMENT

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

## LAY ON TABLE

Sen. Blaisdell moved SB 27 be laid on the table.

Adopted.

## SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended as to allow the introduction of a Committee Report not previously advertised in the *Calendar*.

Adopted.

## COMMITTEE REPORT

**HB 4**

providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance. Ought to pass with amendment. Sen. Trowbridge for Finance.

## AMENDMENT

Amend the bill by striking out the title and inserting in place thereof the following:

## AN ACT

providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing consolidated grant standards for categorical assistance excluding shelter.

Further amend the bill by striking out all after section 1 and inserting in place thereof the following:

2 Authorizing Consolidated Standards Excluding Shelter. Amend RSA 167:7, as amended, by striking out said section and inserting in place thereof the following:

167:7 Amount of Assistance. The director of the division of welfare, department of health and welfare, shall establish consolidated standards of assistance for all payments excluding those for shelter and shall determine the amount of assistance to be granted under this chapter or RSA 161. In regard to assistance payments for shelter, due regard shall be given for the variable cost of securing, moving to, equipping and maintain-

ing shelter. In the determination of assistance, due regard shall be given to income and resources of recipients and the funds appropriated for purposes of this chapter and RSA 161. Said assistance shall be sufficient, when added to all other income and resources of the case, to provide such person with a reasonable subsistence compatible with decency and health. The director of the division of welfare shall in appropriate cases give notice to (consult with) the proper officials of counties or towns hereby required to contribute to the cost thereof. For the categories of aid to the permanently and totally disabled, old age assistance and aid to the needy blind, compliance with the federal program of supplemental security income, or any successor program, shall be deemed to meet the requirements of this section.

3 Effective Date. This act shall take effect upon its passage.

Sen. TROWBRIDGE: HB 4 is the so-called flat grant bill. As it comes to us it has a supplemental appropriation in the first part of the bill of \$694,000.00 which is to be used for extra shelter and housing allowances to get the housing allowance for people on welfare from the 1969 standard up to the 1972 standard of rental payments. However, the thing in issue has been how do you actually legislate the flat grant. This has been the problem. You will remember the courts said that the Department of Welfare did not have the power administratively to put in a flat grant. In discussions in the hearing and from other people, we find we really should abandon the words "flat grant" and we have picked a new term called a "consolidated grant standard." Consolidated means that everything other than shelter will be consolidated together — that is, food, clothing and other necessities of life — they are all in the consolidated grant per family on a straight categorical basis.

However, shelter is to be taken out and handled on an individual basis. The amendment to HB 4 attempts to do that. As I read it — Section 2. "Authorizing Consolidated Standards Excluding Shelter. The Director of the Division of Welfare, the Department of Health and Welfare, shall establish consolidated standards of assistance for all payments excluding those for shelter and shall determine the amount of assistance to be granted under this chapter or RSA 161. In regard to assistance payments for shelter, due regard shall be given to the variable cost of securing, moving to, equipping and maintain-

ing shelter." The word "variable" there means that it will vary with each case; that the Department has to look at what the situation is, let's say in Hampton, the rentals available, what the person can get and, if it turns out they can get a rental for \$101.00, that is fine. But, if there is nothing available for \$101.00, then they have to get them something that will be consistent with decency and health and that may be \$120.00 a month.

So the variable cost means for each case and on a case by case basis. "In the determination of assistance, due regard shall be given to income and resources of recipients" — that has been in the statute for a long time — "and the funds appropriated for purposes of this chapter and RSA 161." Here is another sentence that is a key — "Said assistance shall be sufficient, when added to all other income and resources of the case, to provide such person with a reasonable subsistence compatible with decency and health." Namely that there is some standard below which the Welfare Department cannot let people go. "The Director of the Division of Welfare shall, in appropriate cases, give notice to and consult with the proper officials of counties or towns hereby required to contribute to the cost thereof." That was in the bill before. And then as the final section, categories are made for the purpose of the totally disabled, old age assistance, aid to needy blind — which are all federally funded — "compliance with the federal program of supplemental security income or any successor program, shall be deemed to meet the requirements of this section." In that way, it seems that if you comply with the federal law, you are complying with the standards of decency and health.

I was slightly amazed that this bill, having come through the House and everything else, was still requiring amendment to the basic problem of whether we are going to have flat grants or not. I have done my best at redrafting this. I have showed it to the people interested in the flat grant and they have said: it is fine; it seems to meet the requirements of separating the shelter from the other consolidated grants and I think that at this point we decided we would not put any more money in the bill because there should be savings made by the variable shelter clause which should be worked on before we see if it needs more money.

Sen. BRADLEY: I believe from your statement that your

amendment that is now before us really in substance is no different from the amendment which I proposed to the Committee and a number of people spoke to in the hearings. But I would like to ask you a couple of questions, just to be absolutely certain as to the effect of this. In the first sentence, there is a reference to the word "shelter" and in the second sentence the term is broader or the phrase is different because it talks of "securing, moving to, equipping and maintaining shelter." Now for me to read those two sentences together, you really have to say that in the first sentence "shelter" really means all of those things?

Sen. TROWBRIDGE: Yes. Shelter means the ability to have housing of some sort and you can't say rental because some don't rent and so you have to use some broader term and we are using shelter in the broadest sense of the term, I think, in that first sentence including and maybe not even limited to what we speak about in the second sentence.

Sen. BRADLEY: That is in the first sentence when we are talking about shelter, we are talking about moving to, if that is necessary, and equipping, if that is necessary, and repairing, if that is necessary, and that sort of thing.

Sen. TROWBRIDGE: There is no question. You are talking about shelter and then going ahead to say "determining the amount of assistance they shall make due regard for these things which are part of shelter."

Sen. BRADLEY: In the second sentence, where you use the term "variable" it is perhaps ambiguous as to whether variable modifies all of the terms following it. It is my assumption that you do intend variable to mean variable costs of securing as well as variable costs of moving to, as well as variable costs of equipping, and variable costs of repairing and maintaining, etc. Is that correct?

Sen. TROWBRIDGE: I am unable to see that it is ambiguous at all because variable cost is modifying all of those things — securing, moving, equipping and maintaining.

Sen. BRADLEY: This is perhaps being repetitious, but in your statement, you did say, didn't you, that when you are talking about due regard being given to these variable costs, talking about looking at individual cases, not necessarily paying precise cost in each case but considering what the cost is in each case?

Sen. TROWBRIDGE: Yes. It is on a case by case basis.

There is one thing I left out. I think one has to remember when we talk about the error rate that has been so highly publicized — error rate on the amount of assistance given to a given family — at the present time if it turns out that the 'phone bill of a welfare recipient was \$5.00 a month and actually they put in for \$5.25 a month that is counted as an error. The whole purpose of having a consolidated grant is that there is a certain block of money given for all of these things within which a person on welfare will live and, therefore, the error rate will disappear in that it will wash in the grant. I think it is very important to have this consolidated grant for the administration of the statute.

Sen. BRADLEY: I would like to rise briefly to support the bill and the proposed amendment, and to commend the Committee for the work they have done. I feel sorry that the Committee did not feel more money could be added to the bill but I understand perfectly well its difficulty in doing so. I think this amendment will allow the Division of Welfare to institute the so-called flat grant system pretty much as they now intend to — not exactly as they now intend to — and will allow them to get the benefits of the so-called flat grant system without working a hardship on the many cases where shelter is an extraordinary cost.

Sen. FOLEY: I rise in support of this bill. We had an excellent hearing yesterday concerning the flat grant program and this seemed to be the bone of contention — the amendment that had been proposed by Sen. Bradley. The Committee worked on it and, hopefully, it will satisfy everyone.

Sen. GREEN: I just want to state for the record that I strongly support the bill.

Sen. BLAISDELL: I am very much in favor of the bill.

Adopted.      Ordered to Third Reading.

### HOUSE MESSAGE

### SENATE CONCURRENCE IN HOUSE AMENDMENT

Sen. Jacobson moved the Senate concur in the adoption of the House amendment to:



SB 20, providing for regulation of franchise agreements for sale of gasoline.

Sen. JACOBSON: This is the bill that has to do with gasoline dealers' rights, sponsored by Sen. Bossie and myself. The House added a few technical amendments plus one other amendment. We had, in the original bill, stated that a dealer, that is a company, could not impose on a retail dealer any condition not in the prior agreement. The House amended that to say, "unless mutually agreeable." The argument was a sound one that it would block any possibility of them coming to some mutual agreement with regard to conditions.

Then, we had taken out of the bill the injunctive relief section. They put it back in in an amended form which would specifically state that possibility. Our Committee had originally said, well injunctive relief and court procedure is acceptable to anyone, why not the state. They felt it ought to be stated and so that seemed reasonable.

Then, in the bill, it said that a dealer would not be required to receive from the major company any posters, bills, tickets, gifts and signs. Now that question had been raised with our Committee but we did not do anything about it and the word "signs" is taken out because it was felt that Sunoco would have the right to put "Sunoco" upon their billboard or Gulf or Exxon or any such thing.

Then there is also another condition in which the retail dealer is not required to receive any products other than gasoline, the original bill said, and it was brought out in testimony in the House that diesel fuel ought to be included in this so that it says gasoline or diesel fuel.

Then the final amendment is to require gas stations to post in signs large enough so that you can read what the price of gas is and this is what the amendment does. It requires that it be a certain size rather than a sign that is one-half inch high so that when you come into the gas station you suddenly discover after your gas tank is full that it is 85c a gallon. So you have some knowledge at least of what the price will be when you are at least 50 or 25 feet distant. Those are the amendments and they seem reasonable to both myself and to Sen. Bossie and we hope the Senate will concur.

Adopted.

## SUSPENSION OF RULES

Sen. Trowbridge moved the Rules of the Senate be so far suspended as to allow the introduction of a Committee Report not previously advertised in the *Calendar*.

## COMMITTEE REPORT

## HB 31

authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor. Ought to pass with amendment. Sen. Trowbridge for Finance.

## AMENDMENT

Amend the title of the bill by striking out same and inserting in place thereof the following:

## AN ACT

authorizing the public utilities commission until March 6, 1975, to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and providing bonding authority; on March 6, 1975, the foregoing authority shall be transferred to the New Hampshire transportation authority.

Amend RSA 372-A as inserted by section 1 of the bill, by inserting after section 19, the following new section:

372-A:20 New Hampshire Transportation Authority; Representative of. The executive director of the New Hampshire transportation authority, shall be notified and included in any meeting or discussion held by the public utilities commission and kept apprised of any decision made by said commission pursuant to the provisions of this chapter.

Amend the bill by striking out section 6 of said bill and inserting in place thereof the following:

6 New Hampshire Transportation Authority Appropriation Reduced. Amend the Laws of 1973, 582:4 by striking out in line two the words "one hundred" and inserting in place

thereof the following (five) and by striking out in line three the words "a like amount" and inserting in said line after the numerals "1975" the following (the sum of seventy-three thousand dollars.) so that said section as amended shall read as follows:

582:4 There is hereby appropriated for the New Hampshire transportation authority for the fiscal year ending June 30, 1974, the sum of five thousand dollars; and for the fiscal year ending June 30, 1975, the sum of seventy-three thousand dollars. The governor is authorized to draw his warrant for the sums hereby appropriated out of any money in the treasury not otherwise appropriated.

7 Definitions. Amend RSA 21-C:2, as inserted by 1973. 582:1, by inserting after paragraph III the following new paragraphs:

IV. The term "rail properties" shall mean assets or rights, both real and personal, owned, leased, or otherwise controlled by a railroad which are used or useful in rail transportation service.

V. The term "person" shall mean individuals, corporations, partnerships or associations, foreign and domestic.

VI. The term "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth.

VII. The term "agent for the state" shall mean and include the New Hampshire Transportation Authority as agent for the state as that term is used in the Regional Rails Reorganization Act of 1973, and any amendments thereto.

VIII. The term "rail service" shall mean both freight and passenger service.

8 Increasing Membership on New Hampshire Transportation Authority Board. Amend RSA 21-C:3, as inserted by 1973. 582:1, by striking out said section and inserting in place thereof the following:

21-C:3 New Hampshire Transportation Authority. There is hereby established a public corporation as an agency of the state to be known as the New Hampshire transportation authority. The management of such corporation shall be vested in a board of six directors, who shall be appointed by the gover-

nor with the advice and consent of the council. Not more than three of such members shall be of the same political party and one member shall be a representative of rail freight users. Each member shall hold office for a term of five years and until his successor is appointed and qualified, except that of the members first appointed to the board, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and two for a term of five years. The chairman of the board of directors shall be designated by the governor, with the advice and consent of the council. Each member of the board shall be compensated in the amount of twenty-five dollars per day for each day spent in the performance of duties hereunder, and shall be allowed his necessary travel and expenses in the performance of such duties. Members of the board may be removed from office in the manner prescribed in RSA 4:1. The board shall be furnished appropriate offices in the state house or elsewhere, as the governor and council shall determine.

9 Expanding the Powers of the New Hampshire Transportation Authority. Amend RSA 21-C:6, as inserted by 1973, 582:1, by inserting in line two of the unnumbered paragraph after the word "transportation" the following (and freight transportation), so that said unnumbered paragraph as amended shall read as follows:

21-C:6 Additional Powers of Authority. The authority shall have the power to study the adequacy of public mass transportation and freight transportation facilities and services now available within the state, to ascertain what further facilities and services may be necessary for the economic well-being of the state, and, where feasible, to take action to improve existing facilities and services and to provide for facilities and services where none currently exist. Without limiting the generality of the foregoing, the authority may:

10 Acquisition of Rail Properties. Amend RSA 21-C by inserting after section 8 the following new subdivision:

#### Acquisition of Rail Properties

21-C:9 Declaration of Findings and Purposes. It is hereby declared that:

I. Essential rail service within the state of New Hampshire

is facing cessation or significant curtailment because of the insolvent condition of the railroads in the northeastern United States which are attempting to undergo reorganization under the Federal Bankruptcy Act. This rail service is operated over publicly-used rail properties which have deteriorated and now require rehabilitation and modernization.

II. The public convenience and necessity require adequate and efficient rail service in this state to meet the needs of commerce, shippers, consumers, the political subdivisions of the state and the service requirements of passengers.

III. Improvement of essential rail service and its continuation within the state is necessary to the maintenance and preservation of an efficient national rail transportation system.

IV. Rail transportation and rail service offer economic environmental advantages with respect to land use, air pollution, noise levels, energy efficiency and conservation, resource allocation, safety and cost per ton mile of movement to such extent that the preservation and maintenance of adequate and efficient rail service is in the public interest.

V. These needs cannot be met without substantial action by the state government.

VI. The policy of the state of New Hampshire is to preserve for continued rail service or other public uses the line or lines of all railroads within the state, including but not restricted to lines abandoned or to be abandoned in the state.

VII. The purpose of this subdivision is to authorize the New Hampshire Transportation Authority as sole agent for the state of New Hampshire, to acquire by purchase or condemnation, or otherwise, the rail properties of any railroad within the state for continued operation of such rail properties in furtherance of the public interest.

21-C:10 Acquisition and Necessity. The authority, as sole agent for the state, and with the approval of the governor and council, is authorized to acquire, by purchase or condemnation, or otherwise, such portion or portions of the rail property of any railroad corporation, including such tracks and ties, rights-of-way, land, buildings, appurtenances and other facilities necessary and required for the operation of railroads, as well as any other property found by the authority to be necessary for the

operation of a railroad. The authority to acquire such rail properties shall extend to rail properties within, as well as those not within, the jurisdiction of the Interstate Commerce Commission, and includes rail properties within the purview of the Regional Rails Reorganization Act of 1973, and any amendments thereto. The acquisition of such rail properties and other property by the authority shall be for the purpose of the continued and future operation of a railroad which is deemed to be in the public interest and which shall include the authority to sell or lease said properties. The acquisition of such rail properties and other property is declared to be a public purpose and to be reasonably necessary. This action may be taken in concert with another state or states as necessary to insure continued rail service in New Hampshire.

21-C:11 Sale or Lease; Purpose. The authority as sole agent for the state, with the approval of the governor and council, is authorized to sell, transfer or lease all or any part of the rail properties, and other property acquired under the provisions of this subdivision, to any responsible person, firm or corporation, for continued operation of railroad, or other public purpose, provided, if necessary, approval for such continued operation, or other public purpose, is granted by the Interstate Commerce Commission of the United States whenever such approval is required. Such sale, transfer or lease shall be for such price, and subject to said further terms and conditions, as in the opinion of the authority are necessary and appropriate to effectuate the purposes of this section.

21-C:12 Interstate Commerce Commission Certificate. After acquiring said railroad lines within the state of New Hampshire, the authority, with approval of governor and council, is authorized to assist any responsible person, firm or corporation to secure as promptly as possible after such events, from the Interstate Commerce Commission, any order or certificate required for the performance of railroad service and to give in connection therewith such assurances or guarantees as, in their opinion, may be necessary or desirable to carry out the purposes of this subdivision.

21-C:13 Condemnation. If the authority is unable to acquire the rail properties of any railroad, or any part thereof, by purchase or otherwise, it may proceed to condemn all or any such portion of such property. In all such condemnation

proceedings, the legislative determination herein made that the acquisition is for a public purpose and is reasonably necessary shall be prima facie evidence thereof.

21-C:14 Condemnation Procedure. The procedure for any necessary condemnation proceedings shall be as set forth in RSA 498-A.

21-C:15 Title to Property of Railroads. The authority is hereby authorized to take whatever steps are necessary in order to determine the absolute fee simple title ownership of all such rail properties of any railroad within the state of New Hampshire. Such determination is to include the status of such rail properties with respect to easements, rights-of-way, leases, reversionary rights, fee simple title ownership, and any and all related title matters. The authority may retain such attorneys, experts or other assistants as may be necessary to make these title determinations.

21-C:16 Purchase Price of Rail Properties. All rail properties within the state offered for sale by any railway corporation after the date of enactment of this subdivision shall be offered for sale to the state of New Hampshire in the first instance. The state of New Hampshire, acting through the authority, shall have a right to match any bona fide offer made for such rail properties within the limits set forth in this subdivision.

21-C:17 Cooperation Between States. The authority is authorized to cooperate with other states in connection with the purchase of any rail properties within the state of New Hampshire. The authority is also authorized to acquire trackage rights in other states and rail properties lying in other states in order to carry out the intention and purposes of this subdivision. In carrying out the authority conferred by this section, the authority shall have the right to enter into general contractual arrangements for such purposes, including joint purchase of rail properties with other states and entering into leases jointly with other states affected thereby.

21-C:18 Planning Authority. The authority shall have the power and authority to develop and promulgate plans for the development and continuation of railroad systems within the state of New Hampshire. The authority shall have the duty and responsibility for establishing a state plan as referred to in

the Regional Rail Reorganization Act of 1973, including sections 401, 402 and 403 thereof.

21-C:19 Federal Funds: Appropriations. The authority is also authorized to apply for discretionary funds available under the provisions of the Regional Rail Reorganization Act of 1973. The authority may utilize federal funds, such other grants, gifts or donations as may become available and such sums as are appropriated for the purpose of acquiring rail properties and for all other purposes set forth in this subdivision.

21-C:20 Authority Authorized to Apply for Federal Loans. The authority is hereby authorized, with the approval of governor and council, to apply for acquisition and modernization loan or a guarantee of a loan pursuant to section 403 of the Regional Rail Reorganization Act of 1973 within the limit of funds appropriated for said purposes.

21-C:21 Delinquent Railroad Taxes. Notwithstanding any other provision of law to the contrary, there are hereby appropriated to the authority, and the authority may utilize, subject to approval of the governor and council, any delinquent state taxes and the interest due thereon to the date of acquisition from any railroad entity only as an off-set against the purchase cost of any railroad property purchased from that railroad entity. Such taxes and interest hereby appropriated shall be in addition to any other funds available for the purpose of this subdivision.

21-C:22 Purchase of Rolling Stock, Equipment and Machinery. The authority is authorized to purchase such railroad rolling stock, equipment and machinery as may be necessary for the operation and maintenance of any rail properties purchased by it on behalf of the state, with any funds made available for such purposes. In furtherance of such authority, the authority is authorized to acquire and have available a pool of equipment and machinery which may be utilized by the operators of any such rail properties for the purpose of track maintenance and other related railroad activities, upon such terms and conditions as the authority may determine with approval of the governor and council.

21-C:23 Rebuilding, Modernization and Maintenance of Rail Properties. The authority is authorized to contract for the rebuilding of any rail properties acquired under the provisions



of this subdivision within the provisions of the Regional Rail Reorganization Act of 1973. The authority is further authorized to spend any sums appropriated for such purpose as well as any other available funds for the modernization and rebuilding of any rail properties owned by the state. The authority is also authorized to do such maintenance on any rail properties owned by the state as appears necessary in the public interest.

21-C:24 Disposition of Acquired Rail Properties. Whenever the authority determines that any rail properties acquired by the state are no longer needed for railroad purposes, it may transfer or sell such rail properties to any other state department or agency, or political subdivision of the state, which will utilize such properties for public purpose and, if no state department or agency, or political subdivision, wants such properties, the authority may sell them, with the proceeds being deposited to the special railroad fund established by RSA 21-C:25. Such transfer or sale shall require the approval of the governor and council.

21-C:25 Special Railroad Fund Established. The state treasurer shall establish a non-lapsing special fund to be known as the special railroad fund. He shall deposit in said fund proceeds from the sale or lease of any rail properties and income derived by the authority as a result of action taken pursuant to the provisions of this subdivision, and any special gifts, grants or donations for the purposes of this subdivision.

21-C:26 Appropriation and Order of Use of Special Railroad Fund. Any moneys deposited in the special railroad fund established by RSA 21-C:25 are hereby appropriated to be expended by the authority with the approval of governor and council, only for the following detailed purposes and in the following listed order of priority:

I. To amortize and pay interest on any outstanding bonds or loans;

II. To reimburse the general fund for any amortization or interest payments made on outstanding bonds or loans;

III. To purchase or pay for the operation and the maintenance of railroad properties to be acquired or which have been acquired pursuant to the provisions of this subdivision.

11 Powers of the Transportation Authority. Amend RSA

21-C:6 (supp), as inserted by 1973, 582:1, by inserting after paragraph X, the following new paragraph:

XI. Cooperate with the public utilities commission and other agencies with jurisdiction in the matter to develop, promote, supervise and support safe, adequate and efficient rail services in New Hampshire.

12 Transfer of Appropriation; Bond Issue Authorization; Amortization of Bonds; and Appropriation for Administration. Effective on March 6, 1975, the appropriation made by section 2 of this act; the authorization for bonding provided for by section 3 of this act; the provisions for amortization of such bonds pursuant to section 4 of this act; and the remainder of any funds appropriated, any personnel hired, and records and equipment acquired pursuant to the provisions of section 5 of this act, are hereby transferred to the New Hampshire transportation authority and the appropriate reference to RSA 21-C shall be substituted for any reference to RSA 372-A in the aforementioned sections of the act.

13 Repeal. RSA 372-A, as inserted by section 1 of this act, is hereby repealed.

14 Effective Date.

I. Sections 1, 2, 3, 4, 5 and 6 of this act shall take effect upon its passage.

II. Sections 7, 8, 9, 10, 11, 12 and 13 of this act shall take effect on March 6, 1975.

Sen. TROWBRIDGE: This is a most complex piece of legislation. It should not be, but it is. As you probably are aware, there is no argument whatsoever as to the need for having an interim or an on-going basis by which we can acquire and run and lease railroads that might be abandoned. There was no testimony in opposition to the bill.

In our Senate Finance Committee, it came down strictly to two points: One is which is the authority to run the program and how much money should be put in to make available to whoever runs the program. We listened long and hard and I discussed it up until 8 o'clock last night with people from industry and business and all around as to what the real pros and cons were. The business industry wants HB 31 in whatever

form really it will pass. They would welcome having it in the hands of the Transportation Authority, if that is our decision; they would welcome the Public Utilities Commission doing it, if that is our decision. What they are afraid of is that somehow with the pull and haul of the legislation and the Governorship, we won't get any bill. That is their main fear. We have listened strongly to the arguments that as of the present time the New Hampshire Transportation Authority has just been set up; the Commissioners have just been appointed; they have yet to hire an Executive Director; they have yet to hire an office; and yet, under the Railroad Reorganization Act, the first thing that could happen May 2 is that the B & M could be found by the court unreorganizable and at that point some abandonment could start — not happen, but could start, or be authorized by the court. So that the fears of a great many people, especially the members of the House and the Ad Hoc Committee of the House which really brought this to our attention, have been that we will not get the plans that are needed ready if we go with the New Hampshire Transportation Authority in that they are not really in existence yet. However, there is no question that in the long term the Governor has a good point that the Public Utilities Commission, which is the regulatory agency, should not be the one to also operate the railroads — that there is a conflict down the line if the Public Utilities Commission always ran the railroads as well as regulate them. So, we on Senate Finance have tried to find a compromise between the pulling and hauling here and we have come up with HB 31 as amended.

What it really does is it leaves HB 31 as it came out of the House in Sections 1 through 5 of the act. It starts off just as the House version. That means that as of the effective date of passage, the Public Utilities Commission would be charged with the responsibility of abandonment, plans against abandonment and all the negotiations with the federal government. Then what we are saying is on March 6, 1975 — in the middle of the next session — March 6 carefully picked, the authority will switch over to the New Hampshire Transportation Authority on that date and this bill does not mean it expires — nothing expires — but it automatically transfer over on March 6. The reason we picked March 6 is because the key for filing the final plans with the railroad reorganization people is February 26, 1975. So, we are giving the time for the PUC which is in opera-

tion, is willing and able and ready to go, to move on this until March 6 which is the next Wednesday after Town Meeting and after February 26 and when we will be back in session and can do whatever we feel is right at that time. But it would automatically flick over and all of the staff and the appropriation would go to the New Hampshire Transportation Authority. We also state that the new Executive Director of the New Hampshire Transportation Authority, when he is hired, shall be dealt into all of the negotiations that the PUC is doing so that he will become acquainted, come up to speed, know what is going on so that, when he takes over, he will be right there.

One of the other objections of the Governor was the fact that there is a \$200,000.00 for the New Hampshire Transportation Authority which is not being used and he said, why put \$122,000.00 in this bill when you already have \$200,000.00 over here. We thought that was quite logical so what we have done is reduce the appropriation for the New Hampshire Transportation Authority by \$122,000.00 so that it is available to fund this bill. This leaves the New Hampshire Transportation Authority with \$78,000.00 of its own and \$50,000.00 which is coming from NERC for its operation until March 6, 1975 which will be more than adequate for what they can spend. So that we have not doubled the appropriation for this purpose; we have used the money that is really going to lapse in the New Hampshire Transportation Authority at the end of this biennium. We have used it to fund this bill.

So, as you come along in the amendment, you will see that you are starting out with two other items. One is we have expanded the board; we have expanded the New Hampshire Transportation Authority to 6 members and said one of them must be a member of representative rail freight users so that this group which has been worried will be represented on the New Hampshire Transportation Authority where they were not before. It was all more or less mass transit or trucking oriented.

Section 9 — we expand the powers of the New Hampshire Transportation Authority in order that the debate that has been going on as to whether it has authority from the rail service is ended. In other words, it will make it clear that the Transportation Authority will have authority over freight transportation. So that issue is put aside, hopefully, for a while.

Then where it starts with acquisition of rail property, all the next pages all the way back to the bill is reenacting HB 31 with the Transportation Authority referred to in there so that on March 6, when it takes over, the statute is in the books and does not have to be redone. So there is nothing in there from there on to the end of the bill except HB 31 which is in the beginning of the bill. At the end you have some transfers and some adjustments. You will see that in the transfer of appropriation in the bond issue — there is a \$2 million bond issue in here by the way — that still remains from the House version — with the transfer on March 6 over to the Transportation Authority all of the nitty gritty transfer of staff and appropriations are taken care of and then Section 13 says “repeal” and the beginning part is repealed on March 6 and the effective date here shows that Sections 7 through 9 — which is the Transportation Authority part — starts on March 6 so that the two things dovetail into each other. That sounds awfully complicated but, really, in our information of the pulling and hauling here, this seemed to be the best solution to provide for the orderly transfer of these things from the Public Utilities Commission into the Transportation Authority, which by March 6 should be a known quality, a known value, with a known Executive Director and known ability and, at that point, if we have no other fears and he is doing a good job, there will be no problem of having this switch over. The only objection has been that here, right as of now, at the end of this Special Session, the Public Utilities Commission is the only commission extent which can do the job right now with the critical time period being right now through February 26, 1975 when all the plans for submission go back and forth to the federal government and have to be done. So we think we are picking the best of both worlds. We hope that you will agree. What we have done, I think, is present something that everybody can support and give the Governor his due on his argument about the nature of the Public Utilities Commission and its regulatory power, the appropriation — the double appropriation — it takes care of that. I frankly think that, although complicated and complex, it is the best we know how to do to make sure that the bill does have the broad base of support which it should have.

Sen. GARDNER: As I understand it, this is agreeable to the House also at the present time?

Sen. TROWBRIDGE: I worked on this thing until 8

o'clock last night. This morning we met with the Committee and Sen. Sanborn and myself and a few others began piecing this together. I can't say categorically this is acceptable to anybody because I have only had it out since about 2 this afternoon. Whether it is acceptable or not, I think it contains the elements of acceptance and I can't see that we can't work it out.

Sen. GARDNER: Have you discussed this with the Governor too?

Sen. TROWBRIDGE: I talked with Mr. Douglas of the Governor's office. He, I think at that point, was saying — why didn't you give the acquisition powers in this bill to the Transportation Authority and leave the planning powers with the Public Utilities Commission. Number 1, that was never proposed to us in any way, shape or form at the hearing. Number 2, I had already done it by the time I discussed it with him, so there really wasn't any option. Number 3, I don't think that is practical — you can't have one person planning and the other acquiring. And I think once we get a chance to talk with Mr. Douglas and explain what we are doing, I hope that we will be able to convince him that this is the right way to go. But I can't quote him as saying this is acceptable.

Sen. GARDNER: I hope this bill passes.

Sen. POULSEN: I rise in support of the amendment. This bill was heard first by the Public Works and Transportation Committee, I think, in Sen. Claveau's absence. The problems that we had with the bill have all been solved by this amendment and I appreciate the work that Sen. Trowbridge and the Finance Committee have done in solving it. We knew the problems and there was no solution except by the route that has been followed. I am entirely in favor of the amendment.

Sen. CLAVEAU: As one of the sponsors of the bill, I would have preferred that the whole authority stay with the Public Utilities Commission, but, under the circumstances, I think it is a reasonable compromise and we can still redo this thing next March and I go along with it.

Sen. SANBORN: I think Sen. Trowbridge has done an excellent job in explaining this bill. I want to point out to the Senate one little point and that is that March 6 date that Sen. Trowbridge mentioned. It is the Thursday following town

meeting next year and, at that point, the switch is made. However, it does give the House and the Senate the chance to take a look at it — yes, the Transportation Authority is up to power; yes, the Transportation Commission can take this over at this time — then nothing has to be done. But the safeguard is there, if when we are back here and by the first of March, we find they are not up to power and not able to take this thing over, then all we have to do is run through a bill very quickly and change this March 6 date a year later or whenever we find they can come up to it. So, there is that safeguard and we can keep our eyes on it all the time. I very heartily support this. I think this is the best compromise that could possibly come out of the various factions that have come in on this bill.

Sen. BROWN: Sen. Trowbridge, you indicated in your explanation of the bill that you were going to turn over to the PUC the combination to work together until March 5. You indicated this newly created board was not fully created and, therefore, the implementation, expertise, etc. wasn't there. Just what expertise does the PUC have that the 5 members who have been appointed do not have?

Sen. TROWBRIDGE: They have Mr. Winslow Melvin who has been 45 years in the business of regulating railroads. They have a staff. They have offices. They have the ability. They have been regulating trucking and other transportation problems and the railroads and so, at this point, they know a good deal about all the federal requirements that are coming, all of the problems that are facing them and the abandonments that have been coming through the PUC so they are all aware of what is going on and they are the only people the testimony showed, in the state — the only agency that is up to snuff and aware of what is going on at the present time.

Sen. BROWN: You said the PUC has been regulating. Do they actually regulate or do they give out permits, licenses, etc. and set rates? Do they go beyond that and actually regulate?

Sen. TROWBRIDGE: I take it the PUC started as the Railroad Commission in 1846 or something and has been always in the railroad business from its beginning.

Sen. JACOBSON: I rise in support of the Committee amendment. I only want to emphasize how important this is to business and industry and my hope is that we will not allow

politics on either side of the question to block the realization of this bill. I have heard rumors today that there are those who want to be hard nosed on both sides of the question, and if those who are hard nosed on both sides of the question maintain that static condition, the only losers will be the people of New Hampshire. I have read the bill and it does stand as a compromise between the two extremes, and, as I have said many times on this Senate floor, I think politics has as its essence compromise. I hope that all the parties who are directly involved or directly concerned will support this legislation. There is one little problem that I think can be ironed out in the Committee of Conference and that is the \$5,000.00, and maybe a few thousand dollars are needed there. But that is a very minor matter and certainly can be straightened out so that I hope — and I am not speaking to the Senators here because I think we are generally in support, I am speaking to the people who are not here — and I hope they will listen. We need this legislation for the business and industries of the communities.

Sen. FERDINANDO: I rise in support.

Sen. LAMONTAGNE: I rise in support. Our Committee on Public Works & Transportation has spent a good deal of time on this. We have had industries appear before our Committee favoring this bill and certainly if this bill did not pass it would be a hardship to them. And being in favor of industry, I am hoping there will be no opposition, which I don't think there will be. Also, Sen. Poulsen has spent a great deal of time on this and Sen. Claveau and Sen. Sanborn and others. We have had good attendance in support of the bill in our Committee.

Sen. Ferdinando moved the previous question.

Adopted.

Amendment adopted.      Ordered to Third Reading.

### SPECIAL ORDER OF BUSINESS

Sen. Spanos moved adoption of the Senate Resolution calling for the continuation of the OEO program.

Sen. SPANOS: The thoughts that I would pervade at this moment are contained in the Senate Resolution. In view of the fact that Congress next week will be considering an extension of the OEO program for another three years, it is vital that



we "send a message" to our Washington delegates — if I can borrow from Governor Wallace, who incidentally is supporting such an extension.

One out of every 11 people in New Hampshire lives in poverty — lives without sufficient subsistence — and the purpose of OEO has been to give these people a chance to help themselves and to be constructive forces in their community. The money spent is not "relief" or a "government hand out," but an investment in poor people with the aim to benefit everyone — the taxpayer and poor alike.

OEO is involved in such programs as: Head Start, Day Care Centers, Neighborhood Youth Corps; services for the elderly such as Senior Centers, Meals on Wheels and health centers, homemakers services and housing.

Thirteen Senators have joined with me to sponsor this Resolution. I could have had more if I had the time to talk to each and every Senator. So, let us today unanimously support this Resolution so that the message to Washington can be loud and clear — that we in New Hampshire support OEO without equivocation or reservation and support the Community Action Programs in our State, which have done an outstanding job in righting some wrongs.

Adopted.

#### PERSONAL PRIVILEGE

Sen. SPANOS: In today's Manchester *Union Leader*, it was reported that Rep. John P. H. Chandler, Jr. of Warner would vote to sustain the Governor's veto of House Bill 19, which would increase the limit on campaign expenditures. Chandler, it is reported, said that he would so vote in spite of the fact that his vote would benefit the New Boston "foul ball" and the Newport "greaseball." It is obvious that Rep. Chandler was referring to Sen. Nixon as the "foul ball" and myself as the "greaseball."

Having genuinely suffered through my early years having been in disdainfully termed a "greaseball" because of my Greek origins, the Hellenic blood which flows within me began to boil and I was ready to storm down to Concord and make Rep. Chandler eat his bigoted words. But the immediate anger passed and reason returned. I decided to ignore the political rantings

of Rep. Chandler as almost everyone knows that Rep. Chandler still lives in the 16th Century.

But, as I continued to reflect on this matter, I found that I was more concerned that the Manchester *Union Leader* would have permitted such an "ethnic slur" to be printed in the newspaper which editorialized daily on the now infamous "Canuck" letter of the Presidential Primary campaign. It is obvious from this ambivalence that Mr. Loeb knows how to manipulate the masses with printed words and he knows how to get results — but what he does is to create distrust, suspicion and intolerance among the people of our State — at a time that we cannot afford to be further divided.

For this, I am deeply disturbed — that the publisher of the *Union*, who obviously dislikes me and/or my philosophy, and adores Governor Thomson and Rep. Chandler, incidentally, would play politics with the Greek-American community of this State — a community and heritage of which I am most proud to be a part.

Sen. Foley moved the Senate do now adjourn from the Early Session, that the business in order at the Late Session be in order at the present time, bills be read by title only and that when the Senate adjourn, it be until tomorrow at 10 o'clock and that the Senate adjourn in honor of Central High School, Class L Tournament Champions.

Adopted.

## LATE SESSION

### Third Reading and Final Passage

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing consolidated grant standards for categorical assistance excluding shelter.

HB 31, authorizing the public utilities commission until March 6, 1975, to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and providing bonding authority; on March 6, 1975, the foregoing authority shall be transferred to the New Hampshire transportation authority.

HB 34, relative to energy facility evaluation, siting, construction and operations; providing for a tax on refined petroleum products; and establishing an energy facility study committee.

Adopted.

Sen. McLaughlin moved the Senate adjourn at 6:30 p.m.

Adopted.

### COMMUNICATION

As reported by the Office of the Secretary of State, the following Bill was presented to the Governor on March 27, 1:57 p.m., 1974:

HB 32, relative to the commission and taxes on pari-mutuel pools at dog tracks.

The following Bill was presented to the Governor on March 27, 1:58 p.m., 1974:

HB 3, relative to establishment of a food stamp program and making an appropriation therefor.

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### *Thursday, 28Mar74*

The Senate met at 10:00 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

O Lord, who knows how busy this day will be — if we forget Thee, do not forget us! Enable us to walk, talk and work, ever mindful of Thee, who, under much heavier burdens and far greater controversies, kept an open mind and a tranquil heart.

When *our* day is over and we can rest, let us hear Your gentle voice — saying “Well done, good and faithful servants.

Amen.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mrs. Lee MacCleery.

## HOUSE MESSAGES

## HOUSE CONCURRENCE

SB 3, changing the compensation of certain state law enforcement employees.

SB 11, establishing a state historic preservation office and making an appropriation therefor.

SB 31, authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each city by the issue of revenue bonds.

SCR 1, referring the question of the reclassification of a certain highway in the town of Clarksville to a joint legislative committee.

SCR 2, referring the question of compensation for the town of Gorham to a joint legislative committee.

HOUSE CONCURRENCE IN SENATE  
AMENDMENT

HB 21, relative to the duties of the state board of education and prohibiting the expenditures of public moneys in non-public schools unless said schools have program approval by the department of education, supervisory union accounting of federal funds, and establishing the office of chancellor of the university of New Hampshire system.

## HOUSE NON-CONCURRENCE

## REFERRALS TO INTERIM STUDY COMMITTEES

SB 1, providing for open and honest political campaigns in New Hampshire by requiring greater accountability and full disclosure of campaign contributions and expenditures; and protecting party loyalty by disqualifying defeated primary candidates from being nominated by petition under certain circumstances.

SB 21, establishing a commission on children and youth.

SB 28, to establish standards of care and treatment of alcoholics, intoxicated persons, and drug dependent people.

SENATE NON-CONCURRENCE IN HOUSE  
AMENDMENTSREQUESTS FOR COMMITTEES OF  
CONFERENCE

Sen. Jacobson moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

Sen. JACOBSON: They have deleted a Senate amendment which was proposed by Sen. Johnson and approved by the Committee and we want to have a discussion about that matter and also to review the manner in which they amended the original bill.

Adopted.

The President appointed as members of said Committee on the part of the Senate: Sens. Jacobson, Johnson and Blaisdell.

SENATE CONCURRENCE IN HOUSE  
AMENDMENT

Sen. Poulsen moved the Senate concur in the adoption of the House amendment to:

SB 7, relative to capital improvements to the Mount Washington summit and making an appropriation therefor.

Adopted.

## ENROLLED BILLS REPORT

SB 3, changing the compensation of certain state law enforcement employees and fees of witnesses.

SB 4, relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission.

SB 8, relative to the distribution of testate property following waiver of a will by surviving spouse and relative to the form of notice given for termination of parental rights.

SB 11, establishing a state historic preservation office and making an appropriation therefor.

SB 12, to further protect the rights of mobile home owners by requiring that mobile home park owners and operators state the rules and regulations of the park in writing and provide all tenants with copies of the rules and to encourage the construction of mobile home parks by not prohibiting the so-called "first sale" restriction in a new park.

SB 20, providing for regulation of franchise agreements for the sale of gasoline and requiring the posting of motor fuel prices.

SB 22, establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state and relating to the Lafayette Regional School District and Bethlehem School District.

SB 24, authorizing cities and towns to grant franchises for cable television systems.

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states; permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

HB 13, repealing the termination date of RSA 357-B.

HB 17, increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor.

HB 36, permitting the sale of milk in three quart containers.

HB 37, to provide for the repeal of the law tending to prohibit hitchhiking.

Senator Paul Provost  
For the Committee

Adopted.

HOUSE MESSAGES  
SENATE NON-CONCURRENCE IN HOUSE  
AMENDMENT

## REQUEST FOR COMMITTEE OF CONFERENCE

Sen. Green moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency.

Adopted.

The President appointed as members of said Committee on the part of the Senate: Sens. Green, Brown and Blaisdell.

## HOUSE NON-CONCURRENCE IN SENATE AMENDMENTS

### REQUESTS FOR COMMITTEES OF CONFERENCE

Sen. Porter moved the Senate accede to the request of the House for a Committee of Conference on:

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Zachos, Hoar, Bigelow, Anthony Stevens and Coutermarsh.

The President appointed as members of said Committee on the part of the Senate: Sens. Trowbridge, Claveau and Sanborn.

Sen. Lamontagne moved the Senate accede to the request of the House for a Committee of Conference on:

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicles and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Hamel, Conley, Akerman, Duhaime and D'Amante.

The President appointed as members of said Committee on the part of the Senate: Sens. R. Smith, Porter and Claveau.

Sen. Porter moved the Senate accede to the request of the House for a Committee of Conference on:

HB 34, relative to energy facility evaluation, siting, construction and operations and providing for a tax on refined petroleum products.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Greene, George Roberts, Nutt, Woodruff and David Bradley.

The President appointed as members of said Committee on the part of the Senate: Sens. Porter, Bradley and Preston.

Sen. McLaughlin moved the Senate accede to the request of the House for a Committee of Conference on:

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. McLane, Ferguson, Hough, John Goff and Margaret Cote.

The President appointed as members of said Committee on the part of the Senate: Sens. Bradley, McLaughlin and R. Smith.

#### SENATE CONCURRENCE IN HOUSE AMENDMENTS

Sen. Bradley moved the Senate concur in the adoption of the House amendment to:

SB 26, providing for retirement benefits for supreme and superior court justices.

Adopted.



Sen. Lamontagne moved the Senate concur in the adoption of the House amendment to:

SJR 3, establishing a committee to study highway safety and motor vehicles weight, length and width requirements.

Sen. LAMONTAGNE: There were just a couple of words changed in the amendment and I see nothing wrong with it.

Sen. CLAVEAU: What were the words which were changed?

Sen. LAMONTAGNE: "The committee shall elect one of its members as chairman."

Adopted.

#### ENROLLED BILLS AMENDMENT

SB 31, authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each such city by the issue of revenue bonds.

#### AMENDMENT

Amend section 19 of the bill by striking out line eleven and inserting in place thereof the following:

services, and provided further that the board of taxation shall determine,

Sen. Provost moved adoption of the amendment.

Sen. PROVOST: Inadvertently, the bill referred to the "State Tax Commission" whose functions were transferred to the Department of Revenue Administration and the Board of Taxation. This amendment gives the function of determining whether payments in lieu of taxes are a just share to the Board of Taxation.

Adopted.

RECESS TO 11:30 a.m.

AFTER RECESS

#### ENROLLED BILLS

HB 21, relative to the duties of the state board of educa-

tion and prohibiting the expenditure of public monies in non-public schools unless said schools have program approval by the department of education, supervisory union accounting of federal funds and establishing the office of chancellor of the university of New Hampshire system.

Sen. Paul Provost  
*For the Committee*

Adopted.

## SENATE NON-CONCURRENCE IN HOUSE AMENDMENT

### REQUEST FOR COMMITTEE OF CONFERENCE

Sen. Johnson moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 9, legalizing special town meetings in Wilmot and Pittsfield; and the Seabrook School District meeting.

Adopted.

The President appointed as members of said Committee on the part of the Senate: Sens. Johnson, Brown and Blaisdell.

RECESS TO 1:30 p.m.

AFTER RECESS

HOUSE MESSAGE

### HOUSE CONCURRENCE

SB 18, providing additional cost of living increases for retired members of the N. H. Teachers' Retirement System, the N. H. Policemen's Retirement System, the N. H. Firemen's Retirement System, the N. H. Retirement System and the State Employees Retirement System, and making an appropriation therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of pre-funding to be paid out of escrowed funds derived from an interest assumption change.

RECESS TO 3:00 p.m.

AFTER RECESS

## HOUSE MESSAGES

HOUSE NON-CONCURRENCE IN SENATE  
AMENDMENT

## REQUEST FOR COMMITTEE OF CONFERENCE

Sen. Bradley moved the Senate accede to the request of the House for a Committee of Conference on:

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

Adopted.

The Speaker has appointed as members of said Committee on the part of the House: Reps. George Roberts, Nighswander, McManus, Bednar and Dudley.

The President appointed as members of said Committee on the part of the Senate: Sens. Porter, Jacobson and Bossie.

APPOINTMENTS TO COMMITTEES  
OF CONFERENCE

SB 9, legalizing special town meetings in Wilmot and Pittsfield; and the Seabrook School District meeting.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Benton, Hammond, Sununu, Ethier and Bednar.

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Drake, Tirrell, Read, McGinness and Plourde.

SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

The Speaker has appointed as members of said Committee on the part of the House: Reps. G. W. Brown, Ezra Mann, Hanson, Burke and Timothy O'Connor.

## RECESS

## AFTER RECESS

## HOUSE MESSAGES

SENATE NON-CONCURRENCE IN  
HOUSE AMENDMENT  
REQUEST FOR COMMITTEE OF CONFERENCE

Sen. Sanborn moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 17, relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

Adopted.

The President appointed as members of said Committee on the part of the Senate: Sens. Foley, Preston and Trowbridge.

## ENROLLED BILLS

SB 7, relative to capital improvements to the Mount Washington summit and making an appropriation therefor.

SB 26, providing for retirement benefits for supreme and superior court justices.

SB 31, authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each such city by the issue of revenue bonds.

SJR 3, establishing a committee to study highway safety and motor vehicle weight, length and width requirements.

Sen. Paul Provost  
*For The Committee*

Adopted.

DISCHARGE OF COMMITTEE OF  
CONFERENCEAPPOINTMENT OF NEW COMMITTEE  
OF CONFERENCE

HB 24, permitting the use of changeable effective date des-

ignations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicles and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

The President appointed as members of the new Committee on the part of the Senate: Sens. R. Smith, Porter and McLaughlin.

### SENATE NON-CONCURRENCE IN HOUSE AMENDMENT

#### REQUEST FOR COMMITTEE OF CONFERENCE

Sen. Green moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

Adopted.

The President appointed as members of said Committee on the part of the Senate: Sens. Downing, Green and Spanos.

#### HOUSE APPOINTMENTS TO COMMITTEE OF CONFERENCE

SB 17, relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Raymond, John Goff, Ellis, Harry Parker and Maynard.

Sen. Sanborn moved the Senate do now adjourn from the Early Session, that all business in order at the Late Session be in order at the present time, when the Senate adjourns it be until Tuesday, April 2 at 10 o'clock, and that the Senate adjourn in honor of Sherry Natale, a senior at Plymouth High School who yesterday won in the State Finals the American Legion High School Oratorical Contest held in Concord. We wish her well and Godspeed in her attempts in the Regional Contest and in the Nationals thereafter.

Adopted.

### LATE SESSION

Sen. Brown moved the Senate adjourn at 5:36 p.m.

Adopted.

### COMMUNICATION

As reported by the Office of the Secretary of State, the following Bills were presented to the Governor on March 28, 11:40 a.m., 1974:

SB 3, changing the compensation of certain state law enforcement employees and fees of witnesses.

SB 4, relative to penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission.

SB 8, relative to the distribution of testate property following waiver of a will by surviving spouse and relative to the form of notice given for termination of parental rights.

SB 11, establishing a state historic preservation office and making an appropriation therefor.

SB 12, to further protect the rights of mobile home owners by requiring that mobile home park owners and operators state the rules and regulations of the park in writing and provide all tenants with copies of the rules and to encourage the construction of mobile home parks by not prohibiting the so-called "first sale" restriction in a new park.

SB 20, providing for regulation of franchise agreements for the sale of gasoline and requiring the posting of motor fuel prices.

SB 22, establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state and relating to the Lafayette Regional School District and Bethlehem School District.

SB 24, authorizing cities and towns to grant franchises for cable television systems.

HB 7, permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states, permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

HB 13, repealing the termination date of RSA 357-B.

HB 17, increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor.

HB 21, relative to the duties of the state board of education and prohibiting the expenditure of public moneys in non-public schools unless said schools have program approval by the department of education, supervisory union accounting of federal funds and establishing the office of chancellor of the university of New Hampshire system.

HB 36, permitting the sale of milk in three quart containers.

HB 37, to provide for the repeal of the law tending to prohibit hitchhiking.

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*Tuesday, 2Apr74*

The Senate met at 10 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

Almighty God, we thank Thee for the work completed and for the challenge of the work yet to come!

Guide the members of this body and make us worthy of

these demanding days, which try men's souls and cry aloud for wisdom and courage. Help us to lengthen our days by intensity of living and to fill the swift hours with great deeds, that we may lay up treasures, immune from dust and corruption.

Be with all nations of the world. Draw them together in brotherly alliance and lead us together in paths of righteousness for Thy sake.

We also pray that Thy servant, Willard Gowan, our Door-keeper, may be restored to health. Amen.

The Pledge of Allegiance was led by Reps. Chambers, Belcourt, Nutt, Boyd, Parr, Paul, Belaire, Roy and Sayer.

### SUSPENSION OF RULES

Sen. Porter moved the Rules of the Senate be so far suspended as to allow the introduction of a Senate Resolution, dispense with referral to Committee and allow immediate adoption.

Adopted.

### SENATE RESOLUTION

#### Establishing an Interim Committee to Study Oil Companies and Other Energy Suppliers.

*Be it Resolved* by the Senate, that an interim study committee is hereby established to study the policies of major oil companies and other energy suppliers relating to pricing, interest charges and credit cards. The committee shall consist of three members of the senate chosen by the president of the senate. The committee shall elect a chairman from among its members. Committee members shall receive legislative mileage. In matters material and relevant to its study, the committee may subpoena witnesses and compel their attendance and may require the production of books, papers and documents. The committee shall submit its findings and recommendations, together with a draft of any proposed legislation, to the 1975 regular session of the General Court no later than the last Wednesday of December 1974.

Sen. PORTER: This Resolution is actually very similar to SJR 2 which was passed by the Senate and was defeated in the



House, some would say without all the necessary debate it should have had. It was later adopted as an amendment to HB 34 and there was a lot of controversy to having this amendment to HB 34. The conferees decided to eliminate it from HB 34 at this time and we have tried to bring it in here today so that the Senate could express its view and act on this Resolution strictly as a Senate Resolution and nothing else.

Sen. JACOBSON: I rise in support of the Resolution. Naturally I would have favored having the concurrence of the House so that we would have had unanimity on this question. I think it is a serious question which will be with us for a considerable time. If some of you would look at your electric bills, you will notice that the charge per hundred kilowatt hours has increased from 33c to 50c this month and my understanding is it will go to 70c next month.

I have already had a number of inquiries with respect to this problem and it may be justifiable, I do not know. But, I think we have a serious responsibility with respect to seeing that the public does not suffer simply because of some crisis which then rebounds to the advantage of the few at the expense of the many. Similarly, I saw in the *Concord Monitor* that gas this summer will be 70c or more. When one thinks it only costs 30c a barrel to bring it out of the ground and other processes add only one or two dollars to it, it becomes a very expensive proposition for people.

Furthermore, I just had a complaint from a man who said that one of these canned gas companies was charging him 57c for whatever the measurement is they charge at whereas another one was charging 32c. I don't know why that exists, but certainly I believe it is the responsibility of our Legislature, which is representative of the people, to find out what the facts are and, if there are forms of discrimination, corrective legislation should be supplied. Similarly, I think the problem of credit cards — I just received a gas bill from Arco in the mail yesterday in which *they* set the policy of what the credit shall be and I do not believe oil companies should set the policy of what credit should be in the State of New Hampshire. They changed it arbitrarily. I don't believe they should. I think it is in the public interest that these matters should be carefully investigated. I do not believe in a witch hunt, but I believe in careful

investigation whereby we might come to serve the public interest better.

VOICE VOTE: Adopted Unanimously.

#### APPOINTMENT TO INTERIM COMMITTEE

The President appointed as members of the Interim Committee to Study Oil Companies and Other Energy Supplies: Sens. Porter, Jacobson and Bossie.

#### COMMITTEE OF CONFERENCE REPORT

Sen. Porter moved the Senate adopt the Committee of Conference Report on:

HB 18, requiring local approval prior to approval of site plans for oil refineries.

(See House Journal)

Sen. PORTER: The House has withdrawn its non-concurrence and actually the bill now is as passed by the Senate. The Committee of Conference discussed several different changes and finally agreed on the Senate version and everybody is pleased with the adoption of the Senate passed bill. We urge the concurrence of the entire Senate.

VOICE VOTE: Adopted Unanimously.

Sen. Porter moved the Senate adopt the Committee of Conference Report on:

HB 34, relative to energy facility evaluation, siting, construction and operations and providing for a tax on refined petroleum products.

(See House Journal)

Sen. PORTER: The conferees labored over HB 34 quite at length. We met for several hours last Thursday and we were not able to resolve all the differences and we finally finished yesterday. There were several changes in HB 34. The first one was we deleted the resolution which this Senate just passed. The changes to the bill reflect some of the amendments that the Senate did add and a couple of additional considerations. The first one deals with the location of offshore loading and unloading facilities. There was a great deal of discussion whether

this should be 20 miles, 10 miles or 200 miles. The final resolution of it provides that the Legislature declares a policy within the declaration of purpose of the bill. This policy would be to follow the policies and guidelines as established by the Federal Environmental Protection Agency. What this means is that currently policy guidelines are such that any offshore loading or unloading facility shall be at a minimum of 10 to 25 miles off the shore. That was accepted by the members of the Conference Committee and was agreed to. The language in the declaration of purpose reflects that. However, there is a clause which was added that said it may be relaxed if it is shown by clear and convincing evidence that there are compelling technological and economic reasons for doing so and that no feasible alternative exists.

Another change which was incorporated in the bill extends the time for the permit to be either given or denied. What we did was, we provided two additional months for the State agency which would have to review and pass on the bill, such as the Water Supply and Pollution Commission and the Air Pollution Commission. We extended their time from 5 to 7 months and then extended the total time from 12 to 14 months. This is in keeping with the present law like the bulk power siting law so that they will both be the same. The Committee felt there was a high degree of equivalence between the assignments to review all the impact of the siting and, therefore, made it the same.

Other changes which were made — there were one or two small technical changes in some of the words. We changed the tense of one of the verbs in one of the sentences. In addition to that, we changed the tax rate on the refined product. As you may recall, we brought the bill through the Senate with one-half of 1%. This was changed to one-tenth of 1%. The Committee was able to establish that this would be roughly the amount of tax to be raised; that one-half of 1% was much higher than had been predicted and further evidence suggested that the one-tenth was more in keeping with what was expected on the future refined product output of the refinery.

Lastly, the Energy Facility Study Committee was changed. It was felt there would be some conflicts of interest if we had members of this study committee who would also be sitting on the committee — commissioners, etc. of the various depart-

ments. Therefore, we changed it to include a general economist, a general biologist, an engineer or technologist to be selected from the expertise which is available at the University of New Hampshire.

The final change that was made was to extract the tax portions of the Study Committee's effort and refer that simply to the Joint Committees of the Senate and House Ways & Means Committees for their review and study of it during the interim between now and next January 1. The tax situation, as it refers to the siting and long range plans for the energy facility will be reviewed by the entire Joint Senate & House Ways & Means Committee.

The Committee urges the adoption of these amendments and urges the Senate concur.

Sen. FERDINANDO: You changed the tax from one-half to one-tenth of 1%. I believe that the one-half figure indicated we were talking about \$21½ million for every 400,000 barrels. What kind of revenue are we talking about now — what can the State expect?

Sen. PORTER: The evidence we had presented to us in hearing — the Committee on Resources — to include this tax was that we would achieve roughly \$21½ million at one-half of 1%. Further evidence and further study by looking at some other states, according to Representative Roberts, shows that one-tenth of 1% will also yield \$21½ million. In other words, he had made an error in his prediction before and he feels that one-tenth of 1% would yield roughly the same amount — \$21½ million based on a 400,000 barrel a day refinery.

Sen. FERDINANDO: So what you are saying is that one-tenth of 1% will yield the same? Is there no difference between one-half of 1% and one-tenth of 1%?

Sen. PORTER: One-tenth of 1% is 20% of one-half of 1%.

Sen. FERDINANDO: And that yields exactly the same amount?

Sen. PORTER: That is what I am told.

Sen. JOHNSON: I believe it is Sprague which has some kind of a device or a refinery or whatever you call it in Newington. Does that come under this bill or is that not a refinery?

Sen. PORTER: My understanding is that it is not a refinery. They do mixing of various refined products and it is not a refinery as defined in the bill. That is my understanding.

Sen. JOHNSON: There is somewhere a definition of a refinery?

Sen. PORTER: Within the bill, yes.

Sen. JOHNSON: There is?

Sen. PORTER: Yes. It is my understanding from testimony at the hearing that they were not classified as an energy facility *per se*. They are not doing actual refining of products at the Sprague plant in question.

Sen. SANBORN: Basically this bill, as I read it, would cover any type of energy producing plant?

Sen. PORTER: Any kind of an energy facility, yes.

Sen. SANBORN: That would include electrical plants, etc.?

Sen. PORTER: No. An electrical plant siting, transmission line siting, is covered in 162f, the subject of a bill passed several years ago and amended last year to put in a very brief paragraph which said: where applicable oil refineries shall be included. What we are trying to do here is come in with a better, more specific control and procedures siting law.

Sen. SANBORN: But the Energy Facility Study Committee established by this would cover any type of plant that was producing energy. Is that true?

Sen. PORTER: Not truly. The study facility here is really directed toward, frankly, oil refineries basically — that aspect of it and it is not meant to include electric generating plants.

Sen. SANBORN: The reason I asked is say a facility was being sought in the north country, I wonder why a representative from the Southeast Regional Planning Commission would be in on siting a place in, let's say Keene or in the north country and anywhere else in the State outside of the confines of the southeast.

Sen. PORTER: The thrust of the Study Committee is directed toward oil refineries. One would normally expect — this

will expire at the end of this year and we would expect they would be in the southeast region of the state.

Sen. BRADLEY: I rise in support of the Committee of Conference Report. I was on the Committee of Conference. I want to address my remarks to one particular portion of the Committee of Conference Report.

As Senator Porter mentioned, there was an amendment put on the bill in the Senate which would prohibit the granting of a license for an offshore facility any place within 20 miles of the coast and that was the most difficult point on which the Committee struggled. The compromise on that particular provision was the insertion of the first part of the bill where we adopted the language to incorporate the policies and guidelines of the Federal Environmental Protection Agency. There is a particular policy and guideline now in effect of the New England Division of EPA which says that such facilities should be located 10 to 25 miles off the coast. It was very much the thinking of the Committee that we were talking about that kind of distance that allowed us to accept that language. Now, that particular language isn't quite as hard and fast a rule as the Senate amendment, but it does — to my mind and I think in the minds of the Committee — accomplish much the same thing. I should say in general on this measure that I have never felt so uneasy about a particular bill which was so important. I cannot help but feel that a great possibility exists that the State of New Hampshire may be subject to being sandbagged by this whole procedure and I can't put my finger on it, but I just have a very uneasy feeling. We are, by this bill — make no mistake — delegating and giving up a great deal of power and authority to an administrative committee who can make very, very important and far reaching decisions for the whole State of New Hampshire, and particularly the Seacoast region. This is one of the reasons why this particular provision was such a hotly debated item in the Conference Committee — because it was one way in which the Legislature could maintain some reins on this particular agency and they would not have total discretion as to the location. The only point I really want to make by saying all of this is to remind and urge the people in the Senate and in the whole Legislature to be vigilant and follow this whole procedure and be prepared, if necessary in another session, to impose some reins on

this particular agency if they seem to be running away with something which looks too dangerous. For example, let me be very specific about what I am talking about. We are putting an awful lot of trust into the guidelines of the Federal EPA. I don't know how the Federal EPA operates, but if they were to suddenly change their policy in this regard, I think this Legislature should be extremely suspicious and be prepared to come back in immediately in the regular session in 1975 and review this whole area of the location of offshore facilities. Or, if any number of other things that happen might happen, the Legislature again should be prepared to be very suspicious and pull back the reins where now we have given, I feel, virtually complete rein to the committee to make any decision in this area.

Sen. PRESTON: I want to speak in support of the Committee Report and I concur with the feelings expressed by Senators Porter and Bradley. Being one of the Seacoast Senators who has been most affected by HB 8 and HB 34, I think we have tried to take into consideration all of the concerns of the communities and reach the best compromise possible to have some kind of control over this facility. It is my feeling that the existing state agencies and those federal agencies that would become involved in anything having to do with the ocean, that the environmental impact statements required would be sufficient enough to give us some type of protection. We have tried, after half a dozen hours of conversation, to put as much protection as possible in to protect the concerns of those communities in the Districts of Senator Brown, Senator Johnson, Senator Foley and myself. I think the Committee has done a good job and we have gone as far as we can in taking into consideration the environment, the economics and the technological advances and the effects on the coastline.

VOICE VOTE: Adopted Unanimously.

Sen. Bradley moved the Senate adopt the Committee of Conference Report on:

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance.

(See House Journal)

Sen. BRADLEY: The Committee of Conference agreed on language which I think is now acceptable to Mr. Hooker, Mr. Douglas, Mr. Lawton, Mr. Bruno, Rep. McLane and your truly, which is quite an accomplishment. Everyone may have some reservations about it, but the compromise was hammered out. It is not really much different in substance than the amendment which I proposed to the Health & Welfare Committee and the Senate Finance Committee came out with and which was adopted by the Senate. Why don't we go through this sentence by sentence. 167:7 — the first sentence is a lot of the meat of it and it is pretty much the same as in the Senate version simply saying that the Division of Welfare may establish consolidated standards — consolidated standards simply being another word for flat grant, that is the federal term which is used — they may establish consolidated standards of assistance with one exception and that is for shelter for recipients of aid to AFDC. In the second sentence, it makes it clear that with respect to shelter and shelter related costs, due consideration will be given to individual circumstances; that is, you cannot have a flat grant for the cost of shelter, moving to, equipping and maintaining shelter.

The next sentence is new. It was implied in all of the previous bills, in my opinion, but it now has been made explicit and that is that the Director, in paying out assistance payments, particularly in the area where he has to give due consideration to the individual circumstances, if he does not have enough money he can either pay a percentage of the actual cost or he can set maximums of what he would be willing to pay. For example, he could say that no one gets more than \$150.00 or \$100.00, whatever the case may be, for rent. The next sentence, the part about giving due regard to income and resources, that has always been in the law which is required by a federal standard. Then the business about "subject to legislative appropriation" again that has always been implicit in this statute but it is being made explicit that the Director cannot pay out more money than has been appropriated. Finally, in that sentence, the all important standard of decency and health has been maintained in the law. The Governor's office and Mr. Hooker had attempted to take out that particular standard, but the standard has been kept in. It is made subject to the appropriation which again was always implicit, but the standard has been maintained in the law. The last sentence of the section has always been in the law and there is no change in that.



Sen. SANBORN: This was pointed out to me, Senator, by a couple of people in the House, in this next to the last sentence "consistent with decency and health." They could not understand the word "compatibly." Could you explain how that fits in there?

Sen. BRADLEY: Your question is how the word "compatibly" fits in there?

Sen. SANBORN: "Compatibly with decency and health."

Sen. BRADLEY: Well, the idea of that standard, as I read it, is, in effect, twofold. Number 1, as an expression by the Legislature that subsistence payments will be paid to allow people to live under decency and health. Beyond that, it provides a guideline to the Director of the Division of Welfare that within the money that he has, if he has to attempt to so allocate it within his discretion so that people are able to live up to a standard of decency and health. Compatibly simply means that it is consistent with decency and health.

Sen. FERDINANDO: Are we not giving the Director an awful lot under this amendment? It seems that he can decide what figures he wants to give with no safeguards — if he wants to expedite that money right away, if he wants to give everybody \$500.00 a week, if he thinks that is a reasonable figure. It seems there ought to be some sort of control.

Sen. BRADLEY: I would tend to agree with you that perhaps a little more control might be necessary. But I point out to you that the original version coming out of the House and the version being proposed by the Governor's office and Mr. Lawton were to be without any standard whatsoever except for the legislative appropriation so that this is the farthest of any proposal that has been before you. This goes the farthest of any proposal that has been before you in giving the Director some guidance and setting some policy as to how he will make his payments. You are the first person who has suggested we ought to go farther than I have suggested. In other words, you are the first person I have talked to who wants to give the Director more guidance than I think we ought to give him. Everyone else says, don't give him any direction and I have compromised toward the middle, if you will. But it is very interesting to me you point out what I have been saying all

along — that you have to give the Director some guidance and set some policy as to the direction he should go.

VOICE VOTE: Adopted Unanimously.

Sen. Green moved the Senate adopt the Committee of Conference Report on:

HB 29, relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions.

(See House Journal)

Sen. GREEN: I am very happy to report that the House did agree with the Senate to add the appropriation of \$84,000.-00 to this bill to take care of those people who had received a commitment from the Department of Education as being eligible for 20% of the tuition payments for their handicapped children. I hope that you will support this unanimously here in the Senate once again.

VOICE VOTE: Adopted Unanimously.

Sen. Porter moved the Senate adopt the Committee of Conference Report on:

HB 33, relative to the Winnepesaukee River Basin Control; and providing for continuation of the study committee on the water supply and pollution control commission.

(See House Journal)

Sen. PORTER: This is a bill very near and dear to the hearts of the many people who have worked on this concept for several years. You may recall this as HB 50 years ago. It establishes the Winnepesaukee River Basin Control program. The Committee of Conference met and deleted the amendment I had put on in the Senate establishing an Interim Floodplain Commission which would keep that issue before the people and continue its study. We did delete it. There was a lot of opposition to that amendment in the House and, in the interest of getting a good bill passed, I agreed to delete it. I still think it is very necessary though. The only other change the Committee made was a suggestion made by the House whereby they

changed the committee structure so that the representatives are all taken from the Committee on Resources and Recreational Development and appointed by the Speaker. The previous bill included one from the House Appropriations Committee, but that was changed. In addition, instead of being three Senators from the Resources Committee, it is just three Senators from the Body. Those were the only changes made by the Committee of Conference and we urge its adoption.

Sen. GARDNER: I served on the Committee with Senator Porter. We worked quite a while to get agreement between the House and Senate and I, too, urge adoption because I think everybody will benefit from the changes in the bill.

VOICE VOTE: Adopted Unanimously.

### COMMITTEE REPORT

#### **SJR 17**

Sen. Bradley moved acceptance of the Report of the Interim Study Committee on SJR 17.

The interim study committee studying the adequacy of laws relating to the confidentiality of the records of state agencies under SJR 17 has not completed its work.

The subject matter of privacy of public records has recently received much attention at the federal level and at least two bills have been introduced on the subject in Congress.

Also, a study committee with a similar charge has recently been formed in Massachusetts.

The committee, therefore, will not be ready to make its full report until the regular 1975 session.

CHAIR: The Report is accepted. There being no objection from the Senate, the Committee will continue its work.

### COMMITTEE OF CONFERENCE REPORTS

Sen. Green moved the Senate adopt the Committee of Conference Report on:

HB 35, providing for twenty years retirement for members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire

Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor.

(See House Journal)

Sen. GREEN: HB 35, of course, is the 20 years retirement bill for Group II in the Retirement System for policemen and firemen. The Conference Committee Report is basically that of the Senate which is the age limit of 45 before a person in this group may retire. Our main concern on the point in discussions was how much money it would take to accomplish this and we did come to an understanding after the actuary people got together and found that the amount of money was somewhere in between the figure reported to the Senate and that reported to the House. All members of the Conference Committee agreed to the figure so I do urge your passage.

VOICE VOTE: Adopted Unanimously.

(Sen. Porter in Chair)

Sen. Trowbridge moved the Senate adopt the Committee of Conference Report on:

HB 2, making appropriations for capital improvements.

(See House Journal)

Sen. TROWBRIDGE: The Capital Budget turned out not to have any tremendous problem to it. The total difference between the Conference Committee version and the Senate version was only \$107,000.00. That is made up of two major items — an extra \$157,000.00 added for Berlin for the Vocational-Technical School so that the Vocational-Technical School will do both the bakery, cafeteria extension and the automotive shop as one complete job for a total of \$300,000.00 instead of a total \$450,000.00. We took out \$25,000.00 in land acquisition for DRED — down from \$75,000.00 — and we reduced the amount going into Fort Constitution from \$50,000.00 to \$25,000.00 because we really couldn't see how any more could be spent at this time. These are the major changes in money.

There is another footnote you should be aware of which is an attempt to resolve the difference between the House and the Senate on the Nashua Vocational School and the Claremont

Vocational School. The House was saying, give them working drawings only. The Senate was saying, not only give them working drawings but give them the construction funds. The new amendment in the Conference Committee Report puts a footnote on all of these projects as follows: "It is the declared legislative intent that this shall be the total cost of completing this project at this facility. No funds hereby appropriated shall be expended for any other purpose except engineering costs, working drawings and plans until such drawings and plans have been approved by the governor and council." In other words, this is a way of saying that we allocate money for engineering and drawings; they can spend it right away. Then they have to bring in the working drawings with the bids to the Governor and Council saying, we can get this facility built for the \$1,400,000.00 or whatever has been appropriated. We are getting sick and tired of having these departments come in saying, we need \$1,400,000.00 for the vocational school — and I am not blaming the vocational schools; it is typical of all the capital budget — they come in and then they find they are \$300,000.00 or \$400,000.00 over. We just simply have to bring an end to these practices. That footnote runs throughout this Conference Committee Report and has been agreed to by all concerned as being a way of having control.

Other than that, the Robert Frost Homestead, we left at \$30,000.00, but we spread it out a little bit differently so that we said living quarters for the caretaker would be \$15,000.00, architects fees not to exceed \$5,000.00 and basic structural renovations would be \$10,000.00.

In the Department of Safety area, we took out my footnote on the Clinton Street site which I will admit to everyone I raised only to sort of rattle the chain a little bit that this is a possible site that should be considered. The Joint Legislative Site Study Committee will do the site preparation.

The Elliot Community Hospital, we amended the footnote so that it only shows guidelines as to how the funds should be used and takes out the limit on the top amount.

Mt. Sunapee — the only change we made there was just a correction so it reads that the feasibility study is on all or part of Mt. Sunapee. The way it read before, it looked like it had to be all of Mt. Sunapee.

Really, it was the most pleasurable Committee of Conference and did not take very long. House members were very conciliatory and the Senate version, in essence, is what we are adopting.

(Senate President in Chair)

Sen. FERDINANDO: There was, if I read correctly, a section in here that gave a directive that New Hampshire architects were to be used whenever possible. It seemed that I saw that in the Senate version of the budget. It seems to be missing here.

Sen. TROWBRIDGE: I don't think there has ever been anything. There may be another statute that applies to that, but we don't put it in the Capital Budget bill. You have never seen it here.

Sen. BRADLEY: On this footnote where you authorize them to extend only to the working drawings and then get approval, did I understand that this is a new kind of device or is this something which has been employed in the past?

Sen. TROWBRIDGE: It is not really so new in that all the bonding has to go to Governor and Council anyhow. The only difference here is that we used to say — get working drawings and come back to the next Legislature. What happens there is that they will go out and get working drawings, say by November and the next Capital Budget won't be through possibly until next June. Hence you lose the whole bidding time. You lose a lot of space there on completion of a project — half a year which really means a year in terms of construction. So, what we are saying is we are giving them an outside figure as to what they can build it in and they can come to Governor and Council and once they get approval of that — they are within their appropriation is really what the point is — they can go forward, speed up the process.

Sen. BRADLEY: If the bids come in over — \$100,000.00 over — does the Governor and Council have the authority to O.K., or is there some sort of administerial act saying no?

Sen. TROWBRIDGE: I would think if the bids came in over, what you would do at that point is that, if I were a department head, I would redo my drawings so that it came in within the appropriation. That is exactly what we are trying to do.

What has happened is that they will go back and the staff at the hospital will say, what do you need and they will start building up drawings again that have an office and an extra office for every person on the staff. Then they will come out with a drawing and they will be way above the amount that was originally thought to be adequate. And the only way we could think of was to say you have to stay within those appropriations.

Sen. BRADLEY: What is the thinking or reasoning for having the Governor and Council perform this function rather than some body within the Legislature? Isn't this really a legislative function?

Sen. TROWBRIDGE: No. I think this is an administrative function as to whether the legislative intent has been followed; namely, that you come in with a building within your appropriation. For instance, the Post Office building has been done this way. A great many other projects have been done this way. All highways are done in this fashion so that this is not something I consider to be any change. It is just before we never lumped them together.

VOICE VOTE:      Adopted Unanimously.

### SPECIAL PRIVILEGE

Sen. LAMONTAGNE: I would like to say that what I am going to say today — my feelings that I am going to express today has never been done in the 20 years I have been in the Senate. I personally feel this Conference Committee on HB 5 with the amendment for the truckers was the most disgraceful thing I have ever witnessed in my life of 20 years of service that I put in here representing my people as well as representing the people of New Hampshire. Everything I have done here before you, I have always done it in good faith. I have always worked for the interest of my people and the people of New Hampshire. But, when I saw this Committee of Conference loaded with opposition as I saw yesterday, not having even one member of the House in favor — every one of the members of the House on this Committee of Conference was in opposition. At the same time, we had one Senator and, of course, his stand and he has the right to speak as he wishes, but he was on this Committee and, therefore, he was in opposition and that is Senator Green —

CHAIR: The Chair will instruct all Senators that there will be no personal derogatory references to any Senator or any member of the House in this Body. The Chair would state to Senator Lamontagne that in the event a new Committee of Conference is appointed, Senator Poulsen, Senator Sanborn and Senator S. Smith would be on it. Pardon the interruption.

Sen. LAMONTAGNE: Let me tell you one thing — and I respect you as well as I respect everyone in this Senate here. I have not said anything wrong about Senator Green.

CHAIR: Excuse me.

Sen. LAMONTAGNE: So, if this is an apology, I will accept it. But I was not talking about Senator Green. The thing that I really am burned up about — that this Committee was loaded and, therefore, I have been told this morning and the person who brought me this information told me that I was going to be taken off of the Committee of Conference on HB 5. This, I got from good sources and I know the person who told me that wasn't lying about it.

This Committee of Conference is going to be loaded again so that these truckers who are facing an emergency are not going to have someone on that Committee with experience — and I will challenge anyone to come out and tell me that I have not got the experience on any of these truck bills. I can operate any type or piece of equipment you can put before me without bragging about it. I have been one of the people who today are on their hands and knees and begging the House of Representatives and the Senate for a decent load limit. I have said this and I will say it again — I have driven from the northern part of New Hampshire to the southern part of the state and different parts of the state of New Hampshire and I have been out of New Hampshire and I have carried the heaviest loads that have ever been carried in this State and, if I haven't got any experience, I will walk out of here now. But I can guarantee you that I can prove to you if I have to take the equipment and bring it right here in front of this State House and I will show you that I can operate it and I can show you the safety there is on the equipment and I would never — you understand — I would never put in a bill for any trucks that I did not think were safe for the public. If anyone wants to prove it, let them come and follow me and I will show you what I can do with these trucks.



I have said to you before, and I am going to say it again — this is no benefit for myself. It is not. I have said that my trucks that I have — and I have 9 of them — every one of them are registered for more than the load I am carrying. But, right now, these trucks I have been asking have nothing to do with these small trucks. The things that I have asked were for the heavy trucks — the trucks that have the weights that do not bring a payload. The reason why these trucks don't bring a payload is because these trucks are big and I will say, like AAA, the fat trucks. Well, if you didn't have the fat trucks and we did not have the railroads in this State, where would our industry be? But I am going to tell you right now, the thing I am mad about is to see the members of the House on the Conference Committee and not even one — not even one — was in favor of the trucks. So, who are they bluffing? We had 18 votes in this Senate here — 18 — and I believe that the 18 who voted in favor of the trucks were sincere. But now we turn around and we will have another Committee of Conference and what is it going to be? Is it going to be another loaded committee? Is it because you know I am in favor of the trucks?

Well, I want the Senate to know that yesterday — and Sen. Poulsen is a witness and so was Sen. Green — the Public Works Department came in with a compromise and the compromise they had they drafted the bill that they would like to have, but the Public Works Department when they got before the Conference Committee — and the Conference Committee had a public hearing like Sen. Nixon wanted — a public hearing that was a big joke. We had AAA with figures he couldn't even understand or explain. And who is the one that is ruling and trying to tell the trucking industry what to do — AAA. When the appearance was made yesterday, I want you to know it was absolutely ridiculous because the young man was using national figures. I asked him a question about state figures and he could not even answer it. He did not know. But then he turned around and accused these trucks of having accidents. Well, I am going to tell you right now in the State of New Hampshire the trucks having accidents are nil. If you talk about the accidents you have in California — yes, in California, of course, there are a lot of accidents with trucks. But it is not in New Hampshire and what is before us is New Hampshire and the law that we are asking to change is New Hampshire. It has nothing to do with any other states.

The State of Maine has increased their weights. The State of Vermont has increased their weights. But New Hampshire is just putting the trucking industry right down the hole. And who is going to pay for that? I am going to tell you right now, it is the people at home who are going to pay. They are the ones always that have to pay the bill. But, as far as I am concerned, this has been a wrongdoing. I am not going to blame the leadership but somebody is responsible for putting people on the Committee that didn't even have any experience — no experience. So how can you be saying that this is fair — to put people on the Committee who know nothing about the trucking industry, with the exception of probably two. But I am going to tell you right now, when people have had no experience, they should not have anything to do with the Committee of Conference because a Committee of Conference is supposed to be a compromise. Well, yesterday, I want you to know I was willing to compromise. I was willing to compromise and so was Senator Poulsen willing to compromise. But nobody else.

We were willing to accept the recommendation made by the Public Works and in this compromise there was protection to protect the bridges, the so-called what they call the H bridges — 15 tons. When I went on these H bridges with 65 tons. There is 90,000 pounds going over these bridges — 90,000 pounds on these bridges. We have had for an argument yesterday that in Jefferson there was a bridge — a bridge older than I am and you mean to tell me a bridge older than I am doesn't need to have some repairs with all the trucks that have been over it. Yes, over a period of years you have to have some repairs. But you go over to any other parts of this state where these trucks have been traveling with 90,000 pounds and I will tell you more than that. I have seen them travel with 140,000 pounds. But none of these bridges has gone down — none. And besides that, these interstates that you hear so much crying about. The interstates are all made for more than the capacity of what they have been rated for by law. All the interstates are all made because of our military equipment that we have. And we have some equipment, I am going to tell you, that runs better than 50 tons. And these roads and these bridges have to be made to take care of the emergency because if our country didn't have decent bridges, we would be in a heck of a fix if we ever face an emergency. Yes, we would be in an awful fix.

Well, I am going to tell you right now I have had my stomach full with some of the things that have been passed in this session and I have had it way up to here. But, right now I am in a position where I had to explode today and I had to do this. I would just as soon do this as be sick. And, at the same time, I am going to feel much better when I get out of this State House. And, at the same time, I will even go further than this. If my people feel they can have somebody who can do a better job than I can then they are welcome to do that too. But I am going to tell you right now, I am not going to take this lying down. No sir. I am not going to go back home and face my people and face these poor truckers. We had them here yesterday losing a whole day. It was a big joke because they needed to work. They need that dollar to be able to feed their families. They have been on their hands and knees begging. Yes, they have been begging. But I would like to see the man get up right now and accuse the Governor of not having prepared a bill because even if the Governor would have had a bill introduced and prepared, I am going to tell you right now, it would have been in the same fix as what we are facing today. So, whether the Governor had a bill or not or whether I had a bill for these boys, or whether anybody else did, it would still be where it is now. And I am going to tell you right now and I will ask each and every one of you — where is the justice? Where? There isn't any. But I have always believed in this Senatorial courtesy and I also believe very much in individual Senators who represent their people. There were 18 votes and I certainly appreciate it. But it doesn't look like I am going to get one vote from that House. Not as long as the Committee is loaded. And not with a Committee that is going to be loaded here too, in this Senate. Because it looks like it is going to be loaded and that is why I am exploding this morning. I have my mind made up and I don't care how much time it takes. I am going to take the time and I am going to unload because I am sick and tired of seeing this petty jealousy and at the same time I hate very much to see the disagreement that has been going on between the leadership. That is all you see in the newspapers. The President — no, I don't want to get into that because I will be called out of order so we will just skip over that.

CHAIR: If you want to blast the President, go ahead.

Sen. LAMONTAGNE: As far as I am concerned, I don't

like what happened and I am going to tell you right now I had planned to stay on this floor a lot longer but right now I feel that I have at least got some comfort from unloading some steam that has built up in these days of this Special Session and I want this to be known and let the record speak that I have never been so disgusted in all my life at what happened yesterday. If I had not seen it with my own eyes, and if I wouldn't have heard it with my own ears, I would never have believed that this could happen between some Senators and some Representatives and I am sorry it ever happened. In closing, may I say that I feel sorry for all these truckers who lost their time in good faith believing the General Court was going to help them. But, may God be with every one of them who have been against them and I hope that they don't have to do what I think they may have to do because, if the independent truckers go on strike, I will guarantee you the Governor will be forced to call you back and you will have to take action because you can't live without having the trucks and you can't live without railroads either.

CHAIR: The Chair would state to Sen. Lamontagne that he apologizes to Sen. Lamontagne. The Chair thought you were about to embark on a statement in respect to another member of the Senate. The Chair excludes himself from the protection of Senatorial courtesy which each Senator should afford the other. The Chair would further state there was no intention at any time of replacing Sen. Lamontagne on the Conference Committee without his consent, his consent being conditioned on his belief that some reasonable compromise might be better expected.

The Chair recognizes Sen. Green who requested to speak under Personal Privilege on the same issue with the same injunction as applies to all Senators to avoid personal references either to members of the Senate or members of the House, with the exception, of course, of the President of the Senate.

Sen. GREEN: I am going to be a man of few words on this. I am not going to get into the issue. I think my position on the issue has been very clearly stated before this Body. When I was asked to serve on the Committee of Conference, I served with the understanding that if I were the only member of that Committee to cause a problem where we could not compromise that I would willingly remove myself so that a compromise

could be reached. I wish that Sen. Lamontagne would have put himself in the same position in which I put myself. I realized we had an obligation to the bill and the Committee of Conference and that is to compromise, if at all possible. I also realized that the agreement had been made that a public hearing would be held if at all possible, and I understand that we set a precedent by holding a Committee of Conference public hearing, which lasted better than three hours. I don't consider that hearing a laugh. I consider it a problem from the point of view that all of us could not attend it all of the time because we had other conferences going at the same time. We heard the majority of the arguments. They are the same arguments both ways. We have heard them before. We are going to hear them again.

What disturbs me is that we get all upset because we don't get our own way. I did not get my way on this thing. I was willing to compromise if the compromise were reasonable. But there was no compromise. It was either to go with the amendment which was cleaned up somewhat by the Commissioner of Public Works and Highways to go with written consent to get the permits but the issue was still the same. So, I don't apologize to anybody for my position on that Conference Committee. I went into that Conference Committee with a position. I was willing to compromise in that position. If I am going to be put in a position of being the non-compromising person, those Senators who were the other way are just as much in that position as I was. I do not want to be put in any position where I am the one. That is ridiculous.

The other thing is it was also understood by me, if I was the only member of that Committee who was causing a problem, I would ask to have myself removed. I get into the Committee of Conference; we have a couple of meetings; we have a public hearing and lo and behold, the five House members are in agreement with *me*. There are two motions put before the group. The first motion is made by Sen. Lamontagne to accept his amendment, slightly amended as suggested by the Commissioner. The vote on that of the members who were present was 4 against and 2 for with the Chairman of the Committee not voting, as I understand it and one member absent. I then made the motion that we pass HB 5 without the amendment as Sen. Lamontagne had offered — and I believe HB 5 should be passed by this Body. I think it is a reasonable bill. I think there should be an Energy Administrator and I think that electrical energy

should be part of that bill. The vote in that case was just the opposite with only 2 voting against it. Now, who is not compromising. I will leave that up to you. I am not going to get into that. But, I just don't want to be put in the position where I am labeled as the person who will not compromise.

I don't want to see HB 5 die. I have asked to be removed from the Committee, as I agreed I would do if there was a problem. And I think Sen. Lamontagne should do the same thing. Since he has put me in that position, I think he is on the other end of the spectrum and I think he should ask to be removed and let the Committee see if they can work out a compromise without either one of the extreme positions being present. If I am going to request that, I think Sen. Lamontagne ought to do the same.

#### TAKEN FROM THE TABLE

Sen. Lamontagne moved SB 27 be taken from the table.

VOICE VOTE: Adopted Unanimously.

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

(Sen. Porter in Chair)

Sen. Lamontagne moved the Senate concur in the adoption of the House amendment.

Sen. LAMONTAGNE: I wholeheartedly concur with the House, the majority of the House who voted 2 to 1 in favor of capital punishment. I would like to bring additional evidence in supporting my motion to concur with the House. I don't believe that this case has ever been brought up, but certainly this case should be brought up before this Senate and this is the case of Ruth Eisenberg, age 22, of Newark, New Jersey, who left her home to visit friends in New Hampshire. She took a train to Boston and then hitchhiked to Newburyport, Massachusetts where she spent the night. The next day, she started to hitchhike to New Hampshire. She was picked up by Ralph Jennings, age 48, of Rochester, New Hampshire. She was taken to Ossipee where she was raped and murdered by him. He killed her by stuffing her panties down her throat with a stick. Jennings was tried before the Carroll County Superior Court and

sentenced to hang on July 5, 1950. He would be the 13th person to meet this death as punishment in this State. On March 20, 1950, they were checking out the room of the prisoner to prepare him for hanging to be sure that everything that would be necessary was in order and the law followed. It was learned that Jennings was found in his cell hanging from two towels tied around a pipe. He had committed suicide. This was done in 1950. I don't remember hearing on this Senate floor this case of hanging that was supposed to have happened in the State of New Hampshire, but the courts had ordered this man to be hung for his wrongdoing. Now, I am not going to say any more about this, but if anyone wants to see the records, there is the case right here.

Personally, I am a man who really believes in capital punishment. I believe that a person taking the life of another should be punished the same way. But, I personally feel that what is before us now is justice. I would urge that the majority of this Senate would vote in favor of the motion to concur with the vote of 2 to 1 of a 400 member House. When you talk about home rule, as has been talked about in this Special Session, I feel that the representation of 400, and I have always been in favor of a large House because a large House is a lot harder to lobby than a small house like we have here in this Senate. Therefore, going back to home rule, I feel that the representation from the small towns as well as from the cities and for the vote that has been cast here that home rule should apply because these people represent, even so we represent these towns, but these people represent in more of number than there are for myself in my District. In my District I am representing all the small towns and the only city in the north is Berlin, but I represent from Twin Mountain, from Shelburne right up to Pittsburg and there is more than one vote in the District that I represent. At the same time, I respect the people who called me. In closing, may I say this. The people who called me, I have not received one call that was in opposition to capital punishment. All the calls I received over the weekend were *for* capital punishment. I only hope that this Senate will go along with the motion to concur with the House.

Sen. BRADLEY: Do I take your remarks to say that a vote of the 400 member House is more significant or somehow carries more weight than a vote of this body of 24?

Sen. LAMONTAGNE: I mean there are more people who are representing the people that are more in number coming from small towns and cities than for us just representing a whole district as we do.

Sen. BRADLEY: I don't think, as they say in court, your answer is responsive. Do you think a vote of the House somehow has more weight than a vote of this body?

Sen. LAMONTAGNE: A 2 to 1 vote of the House has a lot of bearing on my voting today although I have always been for capital punishment. Therefore, to be honest with you, if it had been the other way, I would still be voting for capital punishment.

Sen. S. SMITH: You mentioned the fact that the House voted 2 to 1. You are also aware that the Senate on its first vote on life voted 3 to 1?

Sen. LAMONTAGNE: I am glad you asked that question because it broke my heart when I saw in the newspaper 20 to 0. In answering your question, let me tell you. I, for one, voted along with it because I had a feeling that the bill might die and I thought I would rather have a second choice. But I made a mistake because right now I want to stand on my own two feet and I want to be counted in favor of capital punishment and definitely against the way we passed it in the Senate at 20 to 0. Since then I have found out — and I think it would be good for every one of you to take a look in the Constitution of the State of New Hampshire and you will see that the Governor and Council has the right to pardon and nothing stops us in the future from changing the law. To have the same thing occur again what has just happened a few months ago when you have two persons who have been convicted by courts, by a jury, to hang and today one of them is walking on the streets — this can happen again. So what my vote today is going to stand for is capital punishment and I don't care if I am all by myself. I am going to stand for capital punishment and I am against what we passed.

Sen. SPANOS: I rise in opposition to the motion offered by Sen. Lamontagne to concur and hope that the motion will be defeated and that we non-concur and set up a Committee of Conference.

Almost 400 years ago, an English poet of renown said that



"any man's death diminishes me because I am involved in mankind." This most provocative and human thought pretty well summarizes the feeling of those who oppose capital punishment — a form of punishment which is cruel and inhuman and unworthy of a civilization which claims to be civilized and humane. To me, there is nothing more dear than a human life. My Judeo-Christian conscience tells me that there is no fundamental moral difference in the taking of a life by an individual and snuffing out the life by a state. We condemn a man who with deliberation, premeditation and with malice aforethought murders another human being and yet, we, as a civilized society, kill another human being with as much premeditation, with as much deliberation and with much more malice. By so doing, we cheapen the very commodity we are seeking to protect. John Bright, the great English statesman, said: "A deep reverence for human life is worth more than a thousand executions in the prevention of murder. It is, in fact, the great security of human life. The law of capital punishment, while pretending to support this reverence, does, in fact, tend to destroy."

It is true that man has come a long way since the 18th Century with over 200 crimes with capital punishment, but, for one reason or another, there are some people who still want to reinstate the death penalty because they feel that capital punishment serves as a deterrent. Sen. Bradley was so correct when he said the other day that commission after commission, report after report, state legislature after state legislature has studied the effect of capital punishment on deterrents and not one has conclusively been able to prove that there is in fact a deterrent because of the death penalty. Take the case of Martineau and Nelson, for instance, that Sen. Lamontagne has alluded to. These men were convicted of murder. The State charged, and apparently proved, that they were guilty of murder. They transported a victim from Rhode Island to New Hampshire and killed him in New Hampshire. Rhode Island happened to have no capital punishment. New Hampshire did. I am not being facetious when I say that if the proponents of the death penalty feel that capital punishment is a deterrent, then let us give our executions the widest possible exposure. Let's not execute in some remote corner behind prison walls with only a handful of officials watching. Let us have live television coverage on prime time with zoom-ins and close-ups as they

place the rope around the convict's neck and as they release the trap door and the body struggles and dangles in mid air.

What happened in Georgia where they reinstated the death penalty for kidnapping? They took the editor of the *Atlanta Constitution* with no qualms or reservations about the death penalty. What did they do in California and what are they doing in California where they reinstituted the death penalty for kidnapping? That girl is still there. They had no reservations. But you know the thing that bothers me most about capital punishment and that is the fact of the irrecoverability of our action — that we can take a human life and do it by mistake. This is the thing that bothers me most of all. No human institution, courts or juries are infallible. They can and they do make mistakes. It is a known fact that the states of Maine, Rhode Island and Michigan sometime ago abolished capital punishment largely because they had executed innocent people. Here in New Hampshire, and Senator Bradley was trying to allude to this the other day, we have the infamous case of Henry Duke. Duke, in 1958, was convicted of rape after a jury trial, lost his appeal to the Supreme Court and started serving a 15 to 20 year sentence. Here was a man who was found guilty beyond a reasonable doubt by a jury of his peers, had his case examined by the highest court in the State and yet three years later was found to be innocent. There is some evidence that the execution of one Ruth Blay in the 18th Century for murder may have been a mischarge of justice. Mr. President, I submit that as long as guilt or innocence is the product of twelve men's opinion, then I say, as Lafayette did, I shall ask for the abolition of punishment of death until I have the infallibility of human judgment demonstrated to me.

Some time ago, I said on the floor of the House of Representatives that if the beast who sleeps in man could be held down by threat, then the highest emblem of humanity would be the lion tamer in the circus with his whip, not the prophet who himself is the subject of capital punishment.

Sen. LAMONTAGNE: How come other states are going for capital punishment today?

Sen. SPANOS: I think, to be very honest with you, the reason for it is because there are many political leaders who move to the occasion because of the emotions of the time and the hysteria of the time and the newspapers of the time.

Sen. LAMONTAGNE: You heard me mention that Jennings would have been the 13th one to have been hung here in the State of New Hampshire. Weren't there more than 13 murders in New Hampshire?

Sen. SPANOS: Of course there were.

Sen. LAMONTAGNE: If there were more than 13 murders in New Hampshire don't you think that the courts that we have, and especially by juries, that in New Hampshire the juries vote very carefully on how they are setting a sentence on some of these people who have committed a murder by different ways?

Sen. SPANOS: I am sorry, I don't understand your question. But one of the problems with juries — and this is a fact and Senator Bradley mentioned it the other day — many people who are convicted, I am afraid, do go free because the juries do not want to impose the death penalty.

Sen. LAMONTAGNE: You are an attorney, would you say that in the Martineau case the State did not prove that was a cold murder?

Sen. SPANOS: I can only go by what the papers say. I wasn't there. And, again, the whole thing boils down to this: you don't know, Senator Lamontagne; Senator Bradley doesn't know; I don't know whether or not these men were guilty or innocent. Twelve men found them guilty. A court of appeals found them guilty. Within the law, they are guilty; but you will never know. There is only one person knows.

Sen. LAMONTAGNE: You mentioned that the only way you knew about the Martineau case was what you read in the newspapers. Have you heard of any newspapers being sued for giving false information of that case?

Sen. SPANOS: I do not believe there were any libel or slander cases brought in that matter, but they are only reporting the facts as they emanate from the jury trial. But, don't forget, as I said, twelve men don't always come out with the correct answer. And that is the problem.

Sen. DOWNING: Unless I misunderstood, I thought that the point you made in your address to the Senate relative to the Martineau case was that in response to those who said capi-

tal punishment was a deterrent they, in fact, took the individual they did from a state that did not have capital punishment right into a state that did have capital punishment and committed the murder without regard to capital punishment which everybody says is a deterrent?

Sen. SPANOS: That is correct. That is exactly the point. They left a state which did not have equal capital punishment at that time and came to a state which did and allegedly committed the crime in New Hampshire, as the facts are presented to us. I ask you right there if you have the deterrents. You would have thought they would have stayed there.

Sen. FERDINANDO: I rise in support of the capital punishment amendment. Aside from the question that seems to come up as to whether or not it is a deterrent — Senator Spanos mentioned where some of the states have established that it may or may not be a deterrent — I think it is more important to remember that I think what we are doing is, when capital punishment does take place, you are protecting your citizens — our citizens — from this same person ever being able to come back and commit another crime. I think this is a point to remember aside from the debatable question of whether it is a deterrent or whether it is not. I believe it is a deterrent. But I think that is the most important thing — what you are doing is you are eliminating from society a person because of the fear they may come back and create another serious crime by killing other people. And I think that this is what we are doing if we vote to support this motion. Another point I would like to bring out is — what are we really doing here by putting someone in prison for life? Here is a person who becomes a very dangerous person. I don't think he would hesitate to kill a guard or to get out and kill many, many more people because he is not going anywhere. The worst that can happen to him is that you are going to put him back to where he was. So I think he becomes a very dangerous person and becomes very detrimental to the people we represent. These are some of the reasons I would like to support my views on why we should support the House version.

Sen. BRADLEY: I rise in opposition to the pending motion. First of all, for the very simple reason that the bill we are asked to concur with right now is probably the broadest death penalty bill that has ever been drafted and seriously considered

for passage. And let's not lose sight of that fact. Therefore, for that very simple reason, if we are going to have any death penalty bill, it certainly should be allowed to go to a Committee of Conference and the Conference Committee be allowed to restrict this particular bill. I won't go into the details of the bill and I won't bore you with my legal opinions other than to say that this defines murder to include everything that used to be first degree murder, probably everything that used to be second degree murder and probably also most of the things that might have been manslaughter under previous law. We are taking all of those things and saying that death would be mandatory in *all* of those cases. This is a very broad bill and don't let anybody tell you to the contrary. I originally received a letter from a man I respect greatly and I think is very respected throughout the State of New Hampshire, a man who previously served in the House and as Speaker of the House and a man who has also been a public prosecutor. I would like to quote an excerpt from the letter.

"I have always been opposed to capital punishment and, as a member of our New Hampshire Legislature voted to abolish it in our state. Of course, the fundamental reason why I believe it should be abolished is that, in my opinion, at least, the state has no right to take a human life and, when it does, it undermines the respect for life which is paramount to our civilization. There are lesser and more practical reasons, however. The fear of capital punishment has never appeared to lessen crime and the possibility of the death penalty enables many criminals to escape conviction. I found this so during my years as a County Prosecutor. Of course, during recent years, crimes such as hijacking and kidnapping have reached shocking proportions. It is still my belief, however, that the laxity that contributes to them is the tendency to parole lifers when they have served a comparatively short time. In my opinion, a state law making parole in the case of certain heinous crimes impossible, or at least much more difficult, would be a much more constructive approach than restoring capital punishment." Signed, "Sincerely, Norris Cotton, U. S. Senator."

Sen. CLAVEAU: I rise in opposition to the pending motion. I believe that Senator Spanos expressed my thoughts much more eloquently than I could myself. But I would like to bring to mind a case that happened in the late 30's in Lynn, Massachusetts. This was in the Essex County Court in my hometown

of Salem, Massachusetts. There was a robbery at the Paramount Theatre in Lynn and a man was killed. The three robbers who robbed the establishment held hostages for almost 2 hours. There were more than a dozen and these people made positive identification of those who were picked up for the murder. These three men were found guilty of murder. They appealed the case several times and they were sentenced to the electric chair and it was not until the last minute, within the last half hour of the time of their death, that it was discovered that someone else had committed the murder. This was the famous case of the Faber and the Mullen brothers — 3 students at MIT. This shows what a mistake a jury can make. Every one of these witnesses gave positive identification that each one was the guilty one. And these 3 men had never even known each other. They were picked up with a taxi driver in Boston. He was a taxi driver in Lynn. And they never even knew each other. They were picked up and they were put together in the same place for identification. This is what can happen and this is one of the reasons why I am against the death penalty.

Sen. LAMONTAGNE: Was that a New Hampshire case or was it in Massachusetts?

Sen. CLAVEAU: It really doesn't matter.

Sen. LAMONTAGNE: In what state?

Sen. CLAVEAU: Massachusetts. It is a matter of record.

Sen. POULSEN: I rise in support of Senator Lamontagne's motion. I think that, with the rising tide of particularly kidnap crimes, we must have a deterrent. Apparently what we have now doesn't work. If it did work, they wouldn't be rising the way they are. I say this with full knowledge that I am speaking in opposition to my own minister. At the same time, I have here a letter from a group of Baptist ministers — churchmen — who urge passage of this bill.

Sen. CLAVEAU: Do you think any law that you could pass in the Legislature would be a deterrent to crime or prevent crime from happening?

Sen. POULSEN: I certainly do, yes.

Sen. NIXON: I rise as the sponsor of SB 27 in opposition to the motion as offered by Senator Lamontagne to concur in the amendments as offered by the House, for several reasons. In

the first place, as has been pointed out, the amendments which have come to us from the House in respect to SB 27 carry the death penalty into a far broader realm than has been, in my judgment, adopted in any of the 23 states which have opted for the death penalty and beyond the existing law and, in my judgment, probably make it unconstitutional on its face. In the second place, the amendments, as offered by the House, do not provide for the protection of right to life. The United States Senate in adopting the death penalty, in its wisdom, provided for a prohibition against the execution of any woman who was pregnant. The House version provides no such protection. Obviously, such protection should be in the bill. In addition, the amendments as offered by the House provide no protection for minors. I don't think there is anyone in this Chamber who thinks that a person ought to be executed during his minority, regardless of how heinous the crime might be. In the third place, the amendments as offered by the House, provide no means of implementation other than a reference to hanging. There is no provision for the facilities or any funding or appropriation to construct an execution process of any nature. It restricts it simply to hanging. That should be provided for in some detail even if only through a delegation of such authority to the Governor and Council.

If the motion to concur is defeated, it would be my intention to then move that the Senate non-concur and set up a Committee of Conference with instructions to come back to the Senate and to the House, if at all possible, with an amended form of the death penalty bill which would provide for the situations I have just now described and, in addition, restrict the ultimate penalty — the death penalty — to such situations as the murder of a law enforcement officer in the line of his duty, murder for hire, murder in connection with deliberate extortionate kidnapping, murder for sex related crimes. And that mandatory life imprisonment pertain as to the rest of the categories described in the bill, as now worded. In this connection, I would like to commend the House sponsor of the amendment which is now before us for consideration, Representative George Twigg, with whom I have discussed this issue both before and since the House action on it. In my judgment, his feelings on the issue are deep seated, personal and in the public interest. I do not agree with his feelings in all respects, but I respect the manner in which he has presented his feelings and

the manner in which he has persuaded the House to adopt them. I might also say in this connection, that the Attorney General has made available Assistant Attorney General Thomas Rath, the most knowledgeable and experienced legal draftsman and most familiar in the area of capital punishment of any law enforcement officer we have in the State who will be available to a Conference Committee to attempt to work out a bill.

I might say in this regard, I am influenced, as I was in the beginning in my support of the capital punishment bill — the original draft, of course, came from the Attorney General's office and was filed at his request — because of what I believe to be a very honest and deep seated belief — whether true or factual or not — but true and honest on the part of law enforcement personnel that there is some deterrent value to the ultimate penalty in restricted situations. I think, also, that if they believe that — and I speak now of the Doyons, of the Wickes, of the Clay Downings, of the Alexander Lewkos who are not rabble rousers on this issue but who are experienced, dedicated, dignified law enforcement personnel who have given of themselves, their lives and their families to protect the public. Now they may be wrong, as has been suggested, as to whether there is any real deterrent value, but they feel this to be and the people feel that there is a deterrent value to this penalty in the ultimate in restricted situations. I am well aware that a distinguished conservative said as early as 1774 that so far as representing merely the opinion of your constituents' concern, you owe your constituents your judgment, as well as the representation of their opinion and you deceive, rather than represent them, when you sacrifice your judgment to their opinion alone. But, nonetheless, on this issue, I believe that the opinion of the people and the opinion of the law enforcement personnel is valid and should be recognized by us.

I might say finally that, as all of you are well aware, unfortunately this issue has degenerated in recent days, particularly in some quarters, to one of personalization and petty politics. I think we all should rise above such considerations when we are talking about any issue, but most particularly an issue as profound and meaningful to the people of New Hampshire as the issue of capital punishment.

For these reasons, I would hope this Senate, in its wisdom, would see fit to vote against concurrence in the House amend-



ments, as presented, in favor of my subsequent motion which I shall offer to non-concur in the amendments and to set up a Committee of Conference, requesting at the same time that the Senate conferees on such Committee consider actively bringing back their report with amendments to the death penalty bill which will restrict it to those situations where, in its judgment and as suggested, it might have a deterrent effect, and at least convince the people and the law enforcement personnel that we were concerned about the issue and, at the same time, leave room for that error in human judgment that must pertain in all human affairs.

Sen. LAMONTAGNE: Why is it that some of the things you just told us were not in the original bill as it was presented to us before this Senate?

Sen. NIXON: I think I made it obvious and clear, as did the Attorney General when both of us testified in this Chamber on behalf of SB 27, that had it not had the benefit of the interim study which had been requested of it — and the Attorney General was the committee chairman in respect to the interim study committee — that it was relatively hastily drafted and there were some doubts about some provisions of it even then. The Senate knew at the time of the hearing — again don't forget it was filed on a Tuesday through the Rules Committee and referred immediately to the Senate Judiciary Committee which, with the wisdom that it had, time that it had, came back with the mandatory life imprisonment alternative, which was then supported by the Attorney General and then by Colonel Doyon as at least a step in the right direction in respect to the matter of deterrents. I might say in that regard too, Senator, that there are opinions all over the blackboard in respect to whether there is more deterrence in mandatory life imprisonment or in the ultimate death penalty. But I can tell you this — there isn't much, if any, question in the minds of people who are experienced in prosecuting cases, murder cases, and the more experience they have, the more confirmed they are in their judgment that so far as getting convictions are concerned in capital murder cases, they have a far easier job when the ultimate penalty is life imprisonment than when it is death. But, notwithstanding that, I support the bill with the amendments as I have indicated just now.

Sen. LAMONTAGNE: If that is the case, why wasn't this

evidence given to us in our Committee when the Judiciary Committee held a public hearing? It could have been amended and recommendations could have been given to the Committee, but no recommendations were made.

Sen. NIXON: I am not a member of the Senate Judiciary Committee, which, by the way, contrary to a false report in a newspaper over the weekend was not appointed for purposes of hearing this bill alone. It was appointed a year ago January and has been in office ever since. So, I do not know in detail what went into the Committee deliberations on this bill. You are a member of the Committee, Senator, and I do not know why what you speak of was not raised.

Sen. LAMONTAGNE: You mentioned about the Attorney General's bill and, at the same time, the Attorney General favored the life imprisonment with no parole. Wasn't this recommendation from him because he was afraid that the Senate would turn it down and that he would have absolutely nothing and is that the reason why there was a 20 to 0 vote in this Senate?

Sen. NIXON: I don't know why all Senators voted the way they did on this issue. But I can tell you this and, as I have told Representative Twigg, I shared this same concern as did the Attorney General and as did Colonel Doyon that a hard and fast position on the part of either Body on this issue would result in no improvement whatsoever in the existing capital punishment laws which everybody knows are defective and unconstitutional. That is the gamble that is being taken by insistence 100% hard and fast one way or the other on capital punishment in all the categories as provided in the House amendment, on the one hand, and mandatory life imprisonment in all such categories, on the other. That is why I have spoken in favor of referring this matter to a Conference Committee with the assistance and counsel of Assistant Attorney General Tom Rath in the hope that back today can come the capital punishment issue framed in a context which will be meaningful, which will be affirmative, which will be protective of those situations we are attempting to protect but which will still allow for the element of human error in those other situations.

Sen. LAMONTAGNE: Are you aware that the Attorney General appeared before the House in favor of capital punishment?

Sen. NIXON: I don't know what he said when he appeared before the House Judiciary Committee, no.

Sen. LAMONTAGNE: Are you aware that he is in favor of capital punishment?

Sen. NIXON: I don't think there is any question about that. I have heard him on the radio. I have read him in the press and I have spoken to him personally many times. I have a great respect for his opinion in this matter and that is what motivated me to file the bill.

Sen. LAMONTAGNE: Do you feel the Attorney General right now is worried about the Senate and its vote that possibly we might end up by not having anything in this Special Session?

Sen. NIXON: I, frankly, don't know what the Attorney General is worried about right now, Senator. But I think one of the things he might be concerned about, I think one of the things Colonel Doyon might be concerned about, I think one of the things that all law abiding citizens in New Hampshire, including you and me, should be concerned about is that the whole attempt to give better protection to law enforcement personnel and to the parents of victims of this type of crime, might go down the drain because either one side or the other takes such a hard and firm position on this issue that nothing resolves in an affirmative way from our work today.

Sen. JACOBSON: You alluded to the fact that law enforcement officers were of the view that capital punishment, in certain cases, operated as a deterrent. Why is it that it operates only as a deterrent in some specific cases and does not act as a deterrent in universal cases with regard to murder?

Sen. NIXON: One of the interesting things about the killing of people on a one to one basis is that the great majority of such crimes are crimes of passion involving family quarrels, custody of children and divorce related things which are completely unpremeditated, which are not part of any action of any knowledgeable person as to the consequences that might result. As a matter of fact, usually circumstances are such that there is no time or consideration of the penalty or the consequences of the action. But, in the case of killing for hire, we are talking about a professional. In the case of a person killing a law en-

forcement officer in the line of duty we are talking about somebody who has some knowledge of the law and consequences. In the case of killing in a kidnapping related situation, you are talking about a premeditated act by a knowledgeable person as to the law and, to some extent but lesser, in the sex related cases, you are talking about a person who has some knowledge of the pros and cons and the ups and downs, etc. These are situations where the actor, the murderer, might well, and human nature being what it is probably would, know of the consequences of his or her act and possibly — possibly I say because I don't know and I don't have a firm opinion on the deterrent argument one way or the other — possibly would be deterred from carrying out the ultimate act even though they were in a kidnapping situation, etc. And the law enforcement officers, by and large, believe that deterrent factor exists. The people believe that deterrent factor generally exists, at least in these cases.

Sen. JACOBSON: Scar-faced Al Capone was known to have sent out contracts for over 500 murders. Was he ever tried for murder?

Sen. NIXON: No. He was tried for income tax evasion and convicted. The difficulty you have in all such situations, whether it be traffic tickets, whether it be a violation of the lobster fishing laws or the boundary line law or whether it be premeditated murder, is finding the evidence with which to convince a jury beyond a reasonable doubt of guilt. And I don't have an answer to that equation as suggested by you in the case of premeditated murder any more than I do any of the other instances.

Sen. JACOBSON: I believe under SB 27 it also calls for execution of those persons who commit murder in the process of executing a robbery or burglary or other. Is there any evidence to show these persons enroute to a robbery or burglary have already premeditated their killing of anyone who may happen to be there?

Sen. NIXON: I don't know of any evidence one way or the other. But, you will notice that those categories were not mentioned by me as being ones in which the ultimate death penalty should pertain because I do not believe that as much as in the case of somebody who kidnaps or as much in the case of somebody who kills for hire, there is the element of fore-

thought of what ultimately might happen when you speak of burglaries and robberies and arson.

Sen. JACOBSON: In the question of psycho-sexual murders, is it not more often the case that the McNaughton Rule takes place?

Sen. NIXON: If you are speaking of the insanity defense, that is available in any category of killing or in any category of crime and it would be, whether or not this bill in any form were passed. It is a fact, as I think you are suggesting by your question, that often times in sex related killings the person who accomplishes the act may well have been insane at the time of the act or generally. That would be a defense to the ultimate penalty.

Sen. BROWN: If Sen. Lamontagne's motion is defeated and your proposed motion to non-concur is adopted, what assurance can you give me or this body that this bill will come back to us in a modified form? I agree with you, Senator, that it is too broad. But I am definitely in favor of the death penalty in some cases. Can you give me some assurance in that form?

Sen. NIXON: You know, of course, I can't guarantee what is going to happen inside or outside this Chamber, but I think I have it on pretty good authority that there are some leading members of the House who believe that the amendments as adopted by them went too far. I believe that includes, and I hope I don't mis-speak his position, perhaps Representative Twigg who, as I said, in my judgment, has done a commendable job on behalf of his belief in this issue and the belief of many others in the issue. I have reason to believe that he would play an active role in whatever work the Committee of Conference might do on this subject, whether he is a member or not. I have reason to believe that the Senate appointees to the Committee of Conference, whoever they might be, if the motion that I propose were adopted, would be greatly influenced by that motion and work toward a constructive result. These are the beliefs which I have and which have prompted me to make the effort I am making.

Sen. SPANOS: Sen. Brown asked the question in order to protect his viewpoint and I am going to ask you the question that is just the reverse. I would like to have some idea that the people you put on the Conference Committee will be people who will preserve the judgment as enunciated by the Senate

by that 20 to 0 vote. I am not quite sure I can go along with the idea of putting somebody on who is going to come back with an amended version. Is there any possibility of your having somebody on there who would guarantee to us that there would be someone in there fighting for the very things we voted on the other day?

Sen. NIXON: The answer is I will do the very best I can, based on my judgment of the personnel of the Senate and their propensities and their position on this issue. The only thing I can guarantee is that whoever — if the Conference Committee is set up on this issue pursuant to the motion I intend to offer if the pending motion is defeated — they will be, will be in my judgment three people, because that is the number of appointees, who are fair, who are considerate, who are learned on this subject and who will do the best they can to come up with a version of the bill — whether it be mandatory life imprisonment, whether it be the House Amendments as adopted by the House, or whether it be some position in between — that will be responsive to their own conscience and beliefs, on the one hand, and the will of the Senate, in the second place, and the public interest of the people of New Hampshire, finally and most important.

Sen. BOSSIE: I would agree we should send this to a Conference Committee. You did state that you would ask for a Committee of Conference, subsequently with instructions. My position in this — and I would like to know if you agree — the reason why you have a Committee of Conference is for these individuals, 3 in number in our case, to use their own minds and their own intellects to deciding measures which come before them. If we do as you state — include X, Y and Z as the offenses for which we could have capital punishment — that would be limiting them. Would you agree they should have instructions to come back today with a modified version?

Sen. NIXON: Well, actually, I think that when I spoke on the motion I intend to make, I spoke in terms of the Committee conferees being requested to consider the amendments that I discussed or similar amendments in their deliberations. It is true, I think, under whatever rules pertain to Conference Committees, the Senate could specifically instruct them A, B, C and D, but I think I agree with your question that we should not do so. We should leave them to their own judgment, having

in mind that they have to deal with 4 House members who reflect the House point of view to come back with what they think to be in the best interests of all.

Sen. GREEN: Would you agree a motion would be in order from the floor if a Conference Committee was set up to have the vote on the floor by the Senators as to having the Conference Committee come back with some form of restricted capital punishment bill? Would that motion, in your opinion, be in order after the vote to non-concur?

Sen. NIXON: I think the Senate, in its wisdom, can offer any instructions or guidance or restrictions to a Conference Committee that it wants to by a majority vote.

Sen. BRADLEY: We were talking about the composition of the Committee and you had referred to the offer of the Attorney General to make Mr. Rath available as a draftsman. I have great respect for Mr. Rath and his background in this area, but I do know that his interpretation of a number of the key phrases is significantly different from my own and I suspect others. This is certainly an area where the draftsman can influence and affect, if not determine, policy. My question really is — if we are going to make a draftsman available from the Attorney General's office, could we also make a draftsman available who might present a contrary view as to the effect of some of the words which are going to be used in this all important bill?

Sen. NIXON: I think it is a good question and I am sure the Director of the Office of Legislative Services, Attorney and Judge Arthur Marx, will be willing to assist the Committee in addition.

Sen. LAMONTAGNE: What assurance would we have and at the same time wouldn't this be a risk for 24 Senators here trying to tell a 2 to 1 vote — is there any possible chance of us losing the whole works?

Sen. NIXON: There certainly is and that is the risk that was assumed by the sponsor of the amendments which are now before us and a risk that we all will have to take that we get nothing out of our efforts. To me, that risk should not deter us from attempting to do what we think is the best thing to do in the time and the limited talents available to us. In my judg-

ment, the best thing we should do on this issue is attempt to present the issue of capital punishment or mandatory life — whatever you want — in the best form by way of a compromise, if you will, between the House and Senate positions that we can so that every Senator will have an opportunity to vote on this issue in the best form that we can get it to him. That seems to me to be the ultimate goal of responsible legislation.

Sen. LAMONTAGNE: For some of us who do believe in capital punishment and, therefore, if the House would not move with the versions of the Senate, don't you feel that it would possibly be better to turn around right now and, in other words, kill the whole works if we can't have capital punishment?

Sen. NIXON: If your question is asking me whether we should just completely defeat the House amendments and consider the issue closed, I am opposed to that. I think that capital punishment in a carefully drawn bill should be presented to us and hopefully affirmatively acted upon. That is my personal view in this issue. I am the sponsor of the original bill. So, I would say, no, I disagree. I don't think we should do that.

Sen. LAMONTAGNE: The point I am trying to get is this. If we adopt by a majority and it became law that life imprisonment with no parole was enacted into law, wouldn't it be a hard subject to bring up at the session of 1975?

Sen. NIXON: No.

Sen. LAMONTAGNE: Why not?

Sen. NIXON: I think an issue such as capital punishment in one form or another is going to be with every single legislative session from now to eternity, as it has been almost every session that I know of in the past. An issue of this nature such as, if you will, abortion — issues of this nature come back perennially and they should because they deal with the deepest human feelings and the most important considerations in terms of human life and existence and our future. Legislatures have not failed throughout the country and here in New Hampshire to deal, or attempt to deal, with these issues almost every session. I think in your long distinguished career, you will vouch for that.

Sen. BLAISDELL: Senator Lamontagne, you have heard the amendments which Senator Nixon has proposed — the right to life amendment?



Sen. LAMONTAGNE: Yes. But I wouldn't want to take the risk of losing what the House has adopted 2 to 1.

Sen. BLAISDELL: Knowing you as I do, Senator Lamontagne, are you telling me you would not want to give that consideration about an unborn baby's life?

Sen. LAMONTAGNE: I would not want to lose what the House has already passed by 2 to 1. This correction can be made by introducing a bill in the next session of 1975.

Sen. TROWBRIDGE: I think perhaps there is a way of assuring that there is a chance today to make sure we vote on this issue yes or no on capital punishment. I want to explain my point of view. I think that, with all due respect to people who say that — and I quote John Dunne as to the fact that you should never have any life taken by any other person. I think that we ought to recognize in our own law at this time, we permit people to kill others in self defense, we permit policemen to kill felons in the perpetration of a crime, we permit and actively send ourselves overseas to defend our country which involves killing and that the Judeo-Christian civilization will not stand or fall on the basis of whether we have capital punishment in New Hampshire. I think what the public is saying to us today — and quite rightly — is that the State should have the power — the power — to deal with capital punishment and deal out capital punishment if, in certain circumstances, the public interest is involved. I think what we are voting on today is not that every murderer should be killed but that the State should have the power to exercise that right when, as and if a jury gets around to believing that final penalty must be done. Therefore I am going to vote to non-concur *only* to the extent that I do believe Sen. Nixon's explanation of a possible compromise is possible. If the Committee of Conference is unable at all to come to agreements, I think that the proper procedure could be to file Notice of Reconsideration on the vote to concur so that if the bill does not come out in any form at all, we can eventually get back to the place where we are right now; namely, a vote to concur with the House amendment if that is the last possible alternative. And I will so move in advance Notice of Reconsideration on my vote to concur so that everybody knows that there is a protection there for the end of the day. That is the way that I intend to proceed.

Sen. BRADLEY: You point out your feeling that the State

should have the power to impose the death penalty which sounds to me as if you assume that the death penalty under existing law can be the way it has been in the past, that is, discretionary as to whether or not it is invoked. But, you are aware, aren't you, that under the existing U.S. Supreme Court guidelines the only death penalty which is constitutional appears to be one which is required and there is no discretion as to whether or not it will be invoked in any particular given set of circumstances?

Sen. TROWBRIDGE: Yes, I am fully aware of that fact. The point I am saying is if you were to fix up this bill so that the power were restricted to very certain cases, then you have still the fail safe mechanism of the jury who, if they decide not to convict, are the ones who are exercising the discretion that you are talking about.

Sen. S. SMITH: I rise in opposition to the pending motion. I hope that the bill will go to a Committee of Conference, but I hope also that no death penalty will come back in that bill and that it come back with life imprisonment for certain offenses. Sen. Nixon has mentioned the fact that the bill should go to a Conference Committee so that certain omissions or errors might be taken into consideration such as capital punishment for minors and the so-called right to life amendment. We are taking consideration of this bill in the waning hours of the Special Session, probably the most important bill this Legislature in this Special Session is attempting to evaluate. I think this is not the right time and that we may unknowingly make errors of omission or commission in the passage of this piece of legislation. As you know, I am personally opposed to the State taking retribution against the individual. But I think for very practical considerations that capital punishment is not the solution. It has been pointed out today that we are acting in the passion of the moment and I think this is not the solution to an issue which is as serious as this one. We are living in a society it seems that when we hear the news, it is all bad. We hear of violence and we are reacting to that violence. I do not believe that this State, with its traditions should react to the violence we read about and that we see. On a very practical point, I think it has been mentioned — and I mentioned it in my speech before the Senate — in regard to conviction that juries in New Hampshire are not willing to go for capital punishment except in very, very limited cases. In fact, there have been three since 1939. I would like to point out that the one Sen. Lamontagne

mentioned — the man was black. In other words, I think that capital punishment can work against poor and against minority groups. I do not think again that we can ask for retribution. I think that we must, if we want to really resolve the issue, make it sure that people who have committed heinous crimes are placed in prison without parole and that is what the Senate bill did. And I think, as mentioned by Sen. Nixon, that many who have had experience in the trial work of capital type offenses find that they would have a better conviction rate if they had life imprisonment rather than the death penalty. This, I think, is the purpose of state government of the laws which we pass — to protect the individual, not going to one particular case but in the broad view. I think that the State will do a better job and the courts will do a better job of conviction under the life imprisonment bill which passed the Senate. I hope that the Senate Conference Committee will give that very full consideration.

Sen. SANBORN: I must rise in support of the present motion before the Senate to concur with the honorable House in the passage of the bill. It was interesting this weekend to listen to the news. In Massachusetts the 40th homicide for the first 3 months of this year was recorded. This is up 10 from the same period — the first 3 months of 1973. The question has been raised several times here relative to whether capital punishment is a deterrent. I discussed this with the Sheriff of Rockingham County the other day and he asked me — how many people come along and say I am going to murder Wilmont White but because capital punishment is on the books, I am not going to do it. So, how do you prove it? Which I thought was a wonderful question. How do you say whether it is a deterrent? For the past 20 years there has been much discussion in the press by people and everybody else relative to capital punishment. I think everybody must agree we have become a permissive society. We have had many people who have been convicted of murder and placed in jail waiting to see what the courts, so far as the Supreme Court even, would do relative to capital punishment. So consequently there has been no capital punishment in these United States for a good many years now. However, back in the 30's, etc., violent crimes only increased roughly to the same amount or in proportion rather to the population growth. Since the 40's, I think we all have to agree that they have taken a violent up-sweep. Why? Very simple and here I concur with Sen. Nixon —

life imprisonment is much easier to obtain a conviction than capital punishment. Why? Take a good look at the record. The maximum actual sentence that is given under life imprisonment lasts about 10 years and then that murderer is back out on society again to work his will. I will say one thing. Evidently in the confusion of the other day when somebody recorded a 20 to 0 vote in this Senate, it was wrong. There was one negative vote and that was mine.

Sen. GREEN: I would like to be in a position today to vote on a capital punishment bill. If the bill was to come back to this Body and I could have some assurances it would come back to this Body as a capital punishment bill in a more restrictive way than the present bill before us, then I would vote in favor of capital punishment. I think that the amendments and the restrictions offered by Senator Nixon are reasonable and legitimate. If the motion on the floor is defeated, the way I am going to vote, because I cannot vote in good conscience on the present bill, I propose a motion to the Senate for your consideration that would instruct the Conference Committee to come back to the Senate today with a bill for capital punishment with some real restrictions in terms of defining exactly what crimes will be punishable by death. I want to make it very clear that my vote will be against concurring with the House because the bill is too broad. However, I will attempt in the form of a motion to instruct the Conference Committee so that we will vote today on a capital punishment measure.

Sen. GARDNER: I believe in capital punishment, as I stated the time before when the bill came before us. However, I also made the statement that rather than have nothing, I would vote for the bill as it was before us. I now will vote for the bill as it is before us because I feel we may have nothing. I also think that this bill, if it passes, could be amended in the next session as well as the one that passed before.

Sen. LAMONTAGNE: If there were some assurance that the Committee of Conference was going to meet with the House conferees and that they would come in with capital punishment I would possibly compromise in withdrawing my motion as I have been asked by some Senators. But the reason why I do not want to withdraw this motion that is now pending to concur with the House is because I feel that once we leave it in the hands of the Conference Committee that again we are going

to have a recommendation of a life sentence without any parole. That I am against. Everyone knows that nobody will be hung between now and the 1975 session regardless of whether any case of murder is enacted into law so, therefore, we have plenty of time that we will be able to come back and correct, if there is something wrong in the version that is now passed by the House on the 2 to 1. We are all aware there have been some laws that have been put on that have been wrong before and that it has been corrected during that session which is impossible to do today because action must be taken today and it must be final. But if there is some wrong then we can do it in the 1975 session and that is the reason why I will not withdraw my motion and at the same time I am going to request a Roll Call on my motion.

Sen. FERDINANDO: I support Senator Lamontagne's motion. I think the arguments used against this that it is too broad a bill — I think it is much better that we have too broad a bill than too limited a bill. I think this is what the people want. The arguments as far as the mechanics of the bill — whether or not a rope is going to be supplied — the warden could very easily handle that. I don't think we have to worry about those details. I think the third point I would like to make is that it seems that some of us are concerned with the responsibility of the jury. I don't think we should concern ourselves with the responsibility of the jury. I think they have their own responsibility. The argument is being used that the juries are not convicting these people. That is another problem. They have their responsibilities and we have our responsibilities and I think we should vote for Senator Lamontagne's motion.

### ROLL CALL

Roll Call requested by Senator Lamontagne. Seconded by Senator Gardner.

Yeas: Sens. Lamontagne, Poulsen, Gardner, McLaughlin, Ferdinando, Sanborn, Provost and Johnson.

Nays: Sens. S. Smith, Bradley, Green, Jacobson, Spanos, Nixon, Blaisdell, Trowbridge, Claveau, R. Smith, Brown, Bossie, Downing, Preston and Foley.

Result: Yeas 8; Nays 15.

Motion Lost.

SENATE NON-CONCURRENCE IN  
HOUSE AMENDMENT  
REQUEST FOR  
COMMITTEE OF CONFERENCE

Sen. Nixon moved the Senate non-concur in the adoption of the House amendment and request a Committee of Conference on:

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

That the Senate members on the Committee of Conference be requested to consider affirmatively amendments to the bill so that there will come back to the Senate for its consideration and deliberation a capital punishment bill which will be protective of the right of life in accordance with the amendment as adopted by the United States Senate in its version of the bill, be protective of minors, provide some mechanism for the implementation of capital punishment, provide for a greater degree of required witnesses and also provide proper protection under the capital punishment bill for law enforcement personnel in the line of duty, to provide against murder for hire, kidnapping related murders and sex related murders.

Sen. NIXON: And that is a request and not an instruction. I will not speak to the motion because I think I have sufficiently.

MOTION TO DIVIDE

Sen. Jacobson moved that the question be divided along the lines of non-concurrence and the question with regard to coming back with an affirmative vote.

Sen. JACOBSON: Just to explain that non-concurrence and setting up a Committee of Conference would be one motion and everything else would be another. I believe that the very essence of a Committee of Conference is that they be as free as possible to come to whatever decision they may come to and that, when we begin to instruct Committees of Conference, I think we go beyond the question of what is proper parliamentary procedure. I think that whoever the Committee of Conference may be already know what the feelings are and I object

to this on a procedural basis where a Committee of Conference is specifically instructed to come back with one kind of Committee report.

Sen. SPANOS: Sen. Jacobson has expressed by views.

Sen. DOWNING: I did not interpret the second part of that motion as a directive, rather it was a recommendation.

Sen. JACOBSON: However you may have interpreted it, it does, if it is adopted, place a special and unusual burden on the Committee of Conference to which I object.

Sen. PRESTON: I would like to follow up on Sen. Jacobson's remarks on instructing a Committee of Conference in effect how to perform. It has been brought out here this morning, it is a fact that jurors are reluctant to impose the death penalty and in some cases the accused go free and in cases prosecution lawyers would rather go for a life sentence because they don't think they could get capital punishment. And it has been stated previously that stays of execution, court appeals, legal maneuvers for a long period of time and the chances of time that witnesses will no longer be available, that capital punishment sentences are seldom carried out and in some cases the accused go right out on parole to walk the streets again. I would suggest that the Committee in its deliberations, consider the mandatory life sentence which would give those wanting safer streets greater assurance that accused murderers wouldn't be able to be paroled and out walking in the streets. It has been stated that in this session a bill was hastily drafted, but are the few remaining hours today sufficient to properly deliberate such a serious issue? It is true, as has been stated, that the capital punishment bill will be challenged in the courts and found unconstitutional and we will be in no better position than we were before the deliberation? As Sen. Nixon requested consideration for different forms of capital punishment in effect, may I ask greater consideration be given to a bill that will not permit release of accused murderers, that is, mandatory life without parole in cases cited here today. In other words, if there is doubt by those supporting capital punishment that such a sentence will never be carried out, then let's support some workable legislation. This answer should consider Sen. Sanborn's concern as well as others about murderers walking the streets. If it is true, as Sen. Lamontagne says, that no one will be hung before

the 1975 session, then let's have something on the books now, such as mandatory life, that will protect us.

Sen. SANBORN: Senator Nixon, during the last session, didn't we have a couple of bills that went into a Committee of Conference and we gave them some instructions?

Sen. NIXON: I believe that is true. But I would like to go further in my answer and say that I did not in my motion refer to the word direct or instruct. I asked that Committee be requested to consider affirmatively the amendments I suggested. It does not bind the Committee of Conference in my judgment if the motion were adopted.

Sen. LAMONTAGNE: I want to rise to clarify the way I am going to vote and I don't want to have another misunderstanding as we had when I was included in that 20 to 0 when all the time my heart was strongly for capital punishment. I am going to vote against this Committee of Conference because this Committee of Conference will only meet with the House and, at the same time, will come in with a report — and I can see it in writing right now — that it is going to be recommending a life sentence without any parole and that, I am against. I will take the risk — I am going along with the 2 to 1 margin of the House. Then we have a foot in as far as capital punishment and, at the same time, if there is something wrong, it can be corrected in the 1975 session but at least we will have capital punishment. But if we can't have capital punishment, then I say I don't want anything at all and we will take care of it in the next session of the General Court.

### PARLIAMENTARY INQUIRY

Sen. BROWN: Senator Trowbridge's statement that he would move for Reconsideration, is this within the Rules of the Senate?

CHAIR: As far as I understand, it is.

Sen. BROWN: Senator Trowbridge, do you fully intend to do so?

Sen. TROWBRIDGE: Just following the next procedure,



I do plan to file Notice of Reconsideration on the vote on concurrence.

Question on Motion to Divide.

VOICE VOTE: Adopted by Majority.

Sens. Lamontagne, Poulsen, Nixon, Ferdinando, Sanborn, Provost and Brown recorded as voting No.

Question on Motion to Non-concur and Request Committee of Conference.

VOICE VOTE: Adopted by Majority.

(Senate President in Chair)

Question on request to Conference Committee conferees on SB 27.

#### MOTION TO SUBSTITUTE

Sen. Green moved that the word "instructed" be substituted for the word "requested."

#### PARLIAMENTARY INQUIRY

Sen. LAMONTAGNE: Right now if we vote on this motion here, does it mean the Committee of Conference would be able to come in with a life sentence or capital punishment?

CHAIR: The Chair would say that, if you vote yes on the motion now before you, it means you wish to *instruct* the Committee of Conference to come back with amendments to a capital punishment bill in favor of the death penalty in some limited fashion. If you vote on the motion now before you, it means you wish only to *request* the Committee of Conference to come back with some amendments to a limited capital punishment bill but to leave it free to exercise its own discretion without any restrictions whatsoever.

#### ROLL CALL

Roll Call requested by Senator Green. Seconded by Senator Trowbridge.

#### PARLIAMENTARY INQUIRY

Sen. PORTER: Does this absolutely bind the Committee of Conference or not?

CHAIR: The Chair's interpretation of the motion as offered by Senator Green is that it would *oblige* the Senate Conferees on the Committee of Conference on SB 27 to come back with a different, a more limited version perhaps, of the capital punishment bill than the amendments adopted by the House and would not leave the Committee free to consider some alternative remedy such as mandatory life imprisonment.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Green, Trowbridge, McLaughlin, Ferdinando, Sanborn, Provost, Brown and Nixon.

Nays: Sens. S. Smith, Bradley, Jacobson, Spanos, Blaisdell, Porter, Claveau, R. Smith, Bossie, Johnson, Downing, Preston and Foley.

Result: Yeas 11; Nays 13.

Motion to Substitute Lost.

Question on Motion that the Committee of Conference on the part of the Senate on SB 27 be requested to consider protective limitations suggested by Senator Nixon.

### PARLIAMENTARY INQUIRY

Sen. SPANOS: If I do not want to impose any limitation whatsoever on the Committee of Conference and want them to very seriously consider life imprisonment with no parole, do I vote yes or no?

CHAIR: If you are in favor of the Committee of Conference being requested to consider affirmative action on a limited capital punishment bill with protective amendments as described by the Senator from District 9, you will vote yes. If you are opposed to any limitations whatsoever being put upon the discretion of the Senate conferees on the Committee of Conference on SB 27, you will vote no.

Sen. BRADLEY: If this particular motion is adopted, there will be no obligation on the part of the conferees as to what they will consider or not consider and it will be open to them, will it not, to consider what was adopted by the Senate previously and that is mandatory life?

CHAIR: The Committee of Conference would not be bound one way or the other regardless of how one votes on the

pending motion. The Committee of Conference, if the motion were adopted, would be requested to affirmatively consider the limiting amendments to a capital punishment bill. If the motion were defeated, the request would not even stand and the Committee would be open to consider any form of alternate penalty it might desire or not desire so to do. If your vote is in the affirmative, you are participating in a request that the Committee of Conference consider the limiting amendments as to capital punishment without restriction on its right to reject them all.

DIVISION VOTE: Yeas — 14; Nays — 9.

Motion Adopted.

Sens. Jacobson and Porter recorded as voting No.

#### NOTICE OF RECONSIDERATION

Sen. Trowbridge served Notice of Reconsideration of the vote on Senator Lamontagne's Motion to Concur in the House Amendments to SB 27.

#### APPOINTMENT TO COMMITTEE OF CONFERENCE

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

The President appointed as members of said Committee on the part of the Senate: Sens. Porter, Poulsen and Downing.

#### HOUSE MESSAGES

#### HOUSE NON-CONCURRENCE REFERRAL TO FISCAL COMMITTEE

SB 15, transferring permanent state prison employees from group I of the New Hampshire Retirement System to group II or from the State Employees' Retirement System to group II, and making an appropriation therefor.

#### HOUSE APPOINTMENT TO COMMITTEE OF CONFERENCE

SB 2, to provide fairer real estate taxes for the elderly

through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Sayer, Ferguson, Hall, Belair and Belcourt.

#### CHANGES IN HOUSE APPOINTMENTS TO COMMITTEES OF CONFERENCE

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

The Speaker has appointed Rep. John Goff to replace Rep. John Richardson.

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor.

The Speaker appointed Rep. Daniell to replace Rep. Coutermarsh.

SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

The Speaker has appointed Rep. Olden to replace Rep. G. Winthrop Brown.

#### HOUSE APPOINTMENT TO COMMITTEE OF CONFERENCE

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

The Speaker has appointed as members of said Committee on the part of the House: Reps. Currier, Twigg, Record, Alukonis and Hildreth.

## ENROLLED BILLS REPORT

SB 18, providing additional cost of living increases for retired members of the N. H. Teachers' Retirement System, the N. H. Policemen's Retirement System, the N. H. Firemen's Retirement System, the N. H. Retirement System and the State Employees' Retirement System, and making an appropriation therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of pre-funding to be paid out of escrowed funds derived from an interest assumption change.

Sen. Paul Provost  
For the Committee

Adopted.

## RESOLUTIONS

Sens. Porter and Foley moved adoption of a Resolution.

Adopted.

Sens. Porter and moved adoption of a Resolution.

Adopted.

## COMMITTEE OF CONFERENCE REPORTS

Sen. Trowbridge moved the Senate adopt the Committee of Conference Report on:

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor.

(See House Journal)

Sen. TROWBRIDGE: Basically HB 31 comes out as being the Senate version of HB 31 with amendment. The most important thing to remember about HB 31 is that it, in this Senate version, tries to set forth an orderly transfer by which the duties of the Public Utilities Commission on railroads will pass over to the Department of Transportation sometime in March of 1975. The basic change that we made to the bill in that transfer is the section that says it will require a Concurrent Resolution between the House and the Senate in March of next session in

order to "trip over" as I call it, the mechanism which transfers from Public Utilities to the Department of Transportation. The House was adamant that they wanted to have legislative approval of the way the Transportation Authority was operating at that time and that is the mechanism we put in to make sure of that.

The second item is that in cutting the budget of the Transportation Authority in order to fund this bill, I may have been a little bit too frugal so we have restored to the Transportation Authority \$15,000.00 for the first year to carry the new Director through to June of this year and \$100,000.00 for the activities of the Commission in the ensuing fiscal year, and technical amendments also authorizing the Authority, if it takes it over, to hire consultants. That authority is clearly for the Public Utilities Commission but was not clearly stated for the New Hampshire Transportation Authority.

Third, the bond issue has been raised from \$2 million to \$4 million. This is a line of credit that is being put out for whoever is running the program to be able to buy up track and make the necessary purchase of right-of-way in order that the railroads can keep going if they should possibly be abandoned by the B & M primarily.

Finally, we have taken a little bit — just one word — before we said the New Hampshire Transportation Authority, his representative, the Executive Director who has been nominated but not confirmed, shall be notified and included in any meeting held by the Public Utilities Commission on this matter. Before we had said he would be in on every discussion and that obviously was impractical.

The bill really does come out as the Senate version with some amendments and we certainly hope this measure will not meet with further resistance. The Senate has been in the middle of a tug of war between the House, which has been pretty well oriented toward the Public Utilities Commission having the authority, and the Governor, on the other hand, saying the Transportation Authority should have the authority. And we have tried to strike middle ground by providing that the Public Utilities Commission will do the job until March 13 of 1975, at which time all this will be reviewed and, upon a Concurrent Resolution of the House and Senate saying "go" at that point

the Transportation Authority will take over. We hope this is an adequate compromise to recognize the various interests here. I urge adoption of the Committee of Conference Report.

Sen. JACOBSON: A sort of philosophical question — what is the distinction between having the legislation simply automatically flow and allowing it and then possibly changing — the Legislature changing — its mind before that time and having to vote on it whether or not it should go. What is the philosophical distinction there?

Sen. TROWBRIDGE: The philosophical distinction, as per the House members, is that what they want is to feel that this goes over to the Transportation Authority, whenever there has been a clear, positive endorsement by the House and Senate as opposed to having the automatic trip-over at which point you could pass, by majority vote, something repealing this section but then find it was vetoed — one House agreed and the other disagreed — so that the point was they did not want the automatic trip-over. They wanted further legislative input to who shall be running the railroad problem in New Hampshire rather than the automatic. And I would say our Senate version had the automatic trip-over. In order to reach agreement, we had to find a method of satisfying the House, who really wanted primarily to go back to the House version and, hence, the compromise and the struggle on having the Concurrent Resolution.

Sen. JACOBSON: In your discussions with House members, was there a clear assurance that in the event of a veto, the veto could be overridden, remembering that it was stated here earlier during the session that they could override HB 19 and, in the end, it did not receive even a majority vote.

Sen. TROWBRIDGE: You mean the veto of HB 31?

Sen. JACOBSON: No, the veto of HB 19. Although it was said that they could override the veto, the fact of the matter was it did not get even a majority. So, I would like to know if you got a good assurance they could override a veto in that event.

Sen. TROWBRIDGE: What I am dealing with here now is I think we were more concerned with satisfying the interests of the House and Senate with no clear assurance that, if the bill were vetoed, you could override the veto. I think the problem was it became amply clear that without the kind of maneuvering

the Senate has done to find middle ground we would not have gotten House concurrence so that it would be academic as to whether there would be a veto. So I think that has been the problem. Now, I am hoping and I feel sure that those who are interested in the railroad bill will camp on a certain step to make sure that there is no veto. I think that probably is the next step. If there were to be a veto, I have no assurance that the House could override the veto.

Sen. JACOBSON: I rise in support of the Committee Report. I particularly rise in regard to the fact that the bonding has been increased and also that some extra money has been added to the Transportation Authority and, while I appreciate Senator Trowbridge's parsimoniousness on that particular issue, I think that he showed his good common sense to up it a little bit. My only fear reading from the newspapers and hearing certain conversations is the fear of a veto so that, in the case it is vetoed, I also want to be on record that I will vote to override the veto because I think it is so overwhelmingly in the public interest at this juncture of our history that we do need this piece of legislation.

Sen. SANBORN: I speak in favor of the pending motion. I heartily concur in the action of the Committee. I think they have done an outstanding job and I firmly believe the congratulations of both the House and Senate should be given to Senator Trowbridge for his work in working out this compromise.

Sen. CLAVEAU: I rise in support of the pending motion. As sponsor of the bill and as a member of the Committee of Conference, I think it is a very admirable compromise.

VOICE VOTE: Adopted Unanimously.

Sen. Trowbridge moved the Senate adopt the Committee of Conference Report on:

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

(See House Journal)

Sen. TROWBRIDGE: The Committee of Conference on the budget did not have a great deal of difficulty in that we were very close in the House and Senate versions. As you may



recall, HB 1 came in from the House at about \$3,791,575. The Senate version of HB 1 was up a bit — \$4,136,414. The Committee of Conference is down a bit — \$4,103,314. So that we come between the House and Senate version. The biggest reduction that came is in Section 46 of the Act where the Senate version had increased substantially, in the second year of the biennium, the amount of money available for case services in the Welfare Department. These are the grants primarily which are made to help persons who would otherwise go on welfare receive homemaker and visiting nurse type services. However, it was established by Arthur Drake and his conferees that they had only spent \$712,000.00 this year. We knew they had some trouble getting up in the program and that, perhaps, we were pumping too much of what they did not spend into the second year and we decided to back off and see whether that would work. They still are at the level of \$1,400,000.00 in that program and that is a new program so there can be no one who can be saying that we are short cutting the type of local services to people, especially the sick and infirm. We certainly have established a new program. We also cut out the position of Manpower Development Officer in the Department of Mental Health and that was \$26,750.00 on the theory that the House members figured that by next session we would have a greater definition of what they would need. The problem is there; there is no question the problem is how do they make adequate use of the resources they have in the Department of Mental Health and train people so that they can do more. There is a good deal of federal funding available if you have the training program. The House is uncertain about that and we decided we would go along with them on that.

Having mentioned those items, from there on I don't think the Senate lost very much. We made some small changes — errors that we had made — there was an error of \$5,400.00 in the increase in appropriation for the General Court because I added it up wrong, to be honest. There was a change of \$900.00 in the Department of Safety on the amount for the Manchester Substation because they put \$101.00 instead of \$1,001.00 for the benefits, so that figure goes up to \$16,874.00 instead of \$15,000.00. These are just corrections. We did increase for the General Court the amount for post-audits to be run by the Legislative Budget Assistant's Office in the amount of \$15,000.00 to hire certified public accountants because we

have to continue the audits of Administration and Control which are not yet paid for and then we have to try and audit the Centralized Data Processing Commission which is going to be the first audit of that Department and should be rather expensive. So that is \$15,000.00 there. Another item you may recall we had a section dealing with HB 35, the policemen retirement bill whereby we delayed implementation of the statute that we had last year so that the filing period would be delayed and we have delayed it a little bit further to June 1 instead of May 1. For Mr. Bourassa and the Probate Courts, we did not add any money; we just split the appropriation to allow him to use consultants. Then we adopted an amendment for Portsmouth which stated that up to \$67,500.00 of TRA funds could be used on the grade crossing on that bridge at Atlantic Heights in order to help compensate the City of Portsmouth for the difficulty they are having with the big oil trucks going over the bridge which is now semi-condemned.

I would say it was a very quick and pleasant Committee of Conference in which the House saw reason in the form of the Senate version and I urge your adoption.

VOICE VOTE: Adopted Unanimously.

#### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORT

SB 17, relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

#### COMMITTEE OF CONFERENCE REPORT

Sen. Preston moved the Senate adopt the Committee of Conference Report on:

SB 17, relative to the New Hampshire Port Authority, the the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.

The committee of conference to which was referred Senate

Bill 17, "An Act relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of New Hampshire and making an appropriation therefor.", having considered the same with the following recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment and concur in the adoption of the House amendment to the bill; and

That the House and Senate each adopt the following amendments to the bill as amended by the House; and

That the House and Senate each pass the bill as amended by the House and with the following amendments:

Amend section 3 of the bill by striking out the same and inserting in place thereof the following:

### 3 Appropriation for Fishing Pier in Portsmouth.

I. The sum of three hundred eighty-five thousand dollars is hereby appropriated to the department of resources and economic development for the following capital improvements: the construction of a commercial fishing pier and docking facility in the city of Portsmouth on land to be made available by the city of Portsmouth at a cost of no more than one thousand dollars per year on a long-term basis.

II. In the event the city of Portsmouth, within a period of one hundred twenty days after the effective date of this section, is unable to certify its ability to provide suitable land area for the construction of a fishing pier and support facilities as provided for in paragraph I, the sum of two hundred thousand dollars is hereby appropriated to the department of resources and economic development for the acquisition of a suitable site therefor, provided the governor and council has given their approval to the site to be acquired. The power of eminent domain may not be used in the acquisition of said site or the expenditure of this appropriation.

III. The department of resources and economic development is hereby empowered and authorized to charge reasonable user's fees for the pier and docking facility provided for by paragraph I. Fishing vessels shall at all times have priority use of said facility.

Amend RSA 271-A:16 as inserted by section 8 of the bill by striking out in line 5 of said RSA section the word "refinery" so that said section as amended shall read as follows:

271-A:16 Prohibition of Certain Activities. Notwithstanding any other provisions of this chapter, the N. H. Port Authority shall not before July 1, 1975 exercise its authority to construct, own, lease, operate or take any other action with respect to any pipe-line, pumping station, on-shore or off-shore loading facility, bulk storage or transmission facility or processing plant connected directly or indirectly with the processing of oil or liquefied natural gas or liquefied petroleum gases without first obtaining the approval of the fiscal committee of the general court and the governor and council.

Amend sections 6 and 7 of the bill by striking out the same and inserting in place thereof the following:

6 Bonds Authorized. To provide funds for the appropriations made in sections 3, 4, 5, and 9 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of one million ten thousand dollars and for said purpose may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

7 Principal and Interest. The payment of principal and interest on bonds and notes issued for the projects authorized in sections 3, 4, 5, and 9 of this act shall be made when due from general funds of the state.

Amend the bill by striking out section 9 and inserting in place thereof the following:

9 Appropriation for Fencing of Certain Port Authority Property. There is hereby appropriated to the New Hampshire port authority the sum of twenty-five thousand dollars for the construction of a fence for safety and environmental purposes on the property in the city of Portsmouth owned by said authority, said fence to be constructed from the existing entrance gate to said property southerly to the fence now enclosing the so-called Barker Dock Area and from said entrance gate northerly along the line of Market Street Extension to the landward bound of said property.

10 Reduction of Appropriations by Federal Funds. The

amount of said funds appropriated for sections 3, 4, and 5 of this act shall be reduced by the amount of any federal funds received for any of the purposes provided for in said sections.

11 Effective Date. This act shall take effect upon its passage.

Sen. Foley  
Sen. Preston  
Sen. Trowbridge  
Conferees on the Part of the Senate

Rep. Raymond  
Rep. Goff  
Rep. Ellis  
Rep. Parker  
Rep. Maynard  
Conferees on the Part of the House

Sen. PRESTON: This bill authorizes the funds for the construction of badly needed fishing facilities in the city of Portsmouth, the construction of additional facilities in the Harbor facilities and also the location of marine science docking facilities for the University of New Hampshire in its efforts in working in the marine environment. There was a larger sum of money in here of \$2.3 million for plans and improvements to the Port Authority property itself in Portsmouth but it was determined through a last minute amendment through House Appropriations that be stricken and an amount of \$25,000.00 has been appropriated for the erection of a fence and aesthetic improvements on the Port Authority property and the sum of \$14,000.00 plus an additional \$6,000.00 to be put in by the City of Portsmouth and the Southeastern Planning Agency for feasibility studies and plans to be presented to the next session of the Legislature. I think by passing this piece of legislation, the legislative bodies have determined recognition to the fishing industry as a \$2+ million industry and that we will be enhancing both the recreational and commercial fishing so badly needed on the seacoast.

Sen. SANBORN: Where did the fishing facility end up?

Sen. PRESTON: I should have explained that in greater detail. There was a sum of \$385,000.00 appropriated for the construction of a facility and it indicates in Section 2 that "in the event the City of Portsmouth, within a period of 120 days, is

unable to certify its ability to provide suitable land area for the construction of a fishing pier, the sum of \$200,000.00 is hereby appropriated to the Department of Resources and Economic Development for the acquisition of a suitable site." So, if the City of Portsmouth is unable to come up with either Prescott Park or the so-called Marconi property, then the State after 120 days is able to buy a site.

VOICE VOTE: Adopted Unanimously.

### CHANGES IN APPOINTMENTS TO COMMITTEES OF CONFERENCE

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

The President appointed Sen. Trowbridge to replace Sen. Downing and Sen. Blaisdell to replace Sen. Spanos.

### HOUSE MESSAGES

#### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORTS

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency.

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

HB 2, making appropriations for capital improvements.

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance.

HB 18, requiring local option for siting of oil refineries.

HB 29, relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions.

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor.

HB 33, relative to the Winnepesaukee River Basin Control; and providing for continuation of the study committee on the water supply and pollution control commission.

HB 34, relative to energy facility evaluation, siting, construction and operations and providing for a tax on refined petroleum products.

HB 35, providing for twenty years retirement of members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor.

### COMMITTEE OF CONFERENCE REPORT

Sen. Green moved the Senate adopt the Committee of Conference Report on:

SB 10, establishing a sire stakes program and a standardbred breeders and owners development agency.

The committee of conference to which was referred Senate Bill No. 10, 'An Act establishing a sire stakes program and a standardbred breeders and owners development agency.', having considered the same, report the same with the following recommendations:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the Senate concur in the adoption of the House amendments, and

That the Senate and House each adopt the following amendments to the bill, and

That the Senate and House each pass the bill as so amended.

Amend the bill by striking out all after section 3 and inserting in place there of the following:

4 Payment to Sire Stakes Fund. Amend RSA 284:22, II (supp), as amended, by striking out said paragraph and inserting in place thereof the following:

II. The commission on such pools at tracks or race meets at which harness races are conducted for public exhibition, including those conducted by agricultural fairs, shall be uniform throughout the state at the rate of nineteen percent of each dollar wagered plus the odd cents of all redistribution to be based upon each dollar wagered exceeding a sum equal to the next lowest multiple of ten, known as "breakage", one-half of which breakage shall be retained by the licensee in addition to the commission above provided, and the balance of such breakage shall be paid to the state treasurer; one-half of said balance for the use of the state in accordance with the provisions of RSA 284:2, the remaining half of the balance to be deposited in the sire stakes fund established by RSA 426-A:5. Each licensee shall pay the tax provided for in RSA 284:22.

5 Effective Date.

I. Section 2 of this act shall take effect on July 1, 1975.

II. Section 4 of this act shall take effect on July 1, 1977.

III. The remainder of this act shall take effect on July 1, 1974.

Sen. Green

Sen. Brown

Sen. Blaisdell

Conferees on the Part of the Senate

Rep. Drake

Rep. Tirrell

Rep. Read

Rep. McGinness

Rep. Plourde

Conferees on the Part of the House

Sen. GREEN: SB 10 is the sire stakes program. Although we have agreed to less by virtue of the House amendment than we originally requested, we did come somewhere in between and we did agree to compromise on the bill and I do strongly at this point recommend that you support the version as it came out of the Committee of Conference.



Sen. SANBORN: May I ask, not having seen this or had a chance to look at it, how much of a change was made?

Sen. GREEN: The original version that came out of the Senate and passed the Senate was that the program would be established at a rate of one-half of the State's breakage. The House amended it to say that the first year it would be \$15,000.00 only to create the agency and from then on it would be only one-quarter of the State's share which is just one-half of what we were asking in the first place. The final analysis in terms of the compromise what happens is we went along with the \$15,000.00 just to get the agency established until the end of fiscal 1974, which is June 30. Starting July 1, 1974, the rate would be one-quarter of the State's share and that would stay in effect — fiscal '75 and '76. Starting in fiscal '77, after all the testimony, we found out that a real sire stakes program in terms of actually running for purses would not really be effected until 1977 and then, at that time, the formula would be one-half of the State's share. So it is gradually building up to the point where we originally would have liked to see the program start.

VOICE VOTE: Adopted Unanimously.

Sen. Green moved the Senate adopt the Committee of Conference Report on:

HB 11, to increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric aides at the New Hampshire Hospital, and making appropriations therefor.

(See House Journal)

Sen. GREEN: By the time we got through with HB 11 we had made only a couple of basic changes. We did deal with the question of hazardous pay at the prison and the New Hampshire Hospital. We agreed there would be \$25.00 a week available for these employees. We worded it in such a way that these employees would have to come in contact, on a daily basis, with the prisoners or the patients in the prison unit of the Hospital. We also dealt with the question of differential pay. We found we were able to go on the basis of \$5.00 per week for those people who are in positions of daily treatment of patients and inmates. Those are the two basic changes.

There were some unclassified salaries in the original bill and we struck them out so that this bill does not include any unclassified employees as it was passed. This is the Committee's Report and I recommend you pass it.

Sen. SANBORN: You say that the unclassified were struck out and yet in the Report there is a whole page of them?

Sen. GREEN: In terms of the pay raise, they were struck out. There were certain employees who were unclassified who had been left out of the 4% increase which was automatic for the majority of them starting July 1. It was an oversight on the previous bill we had passed during the regular session so we made them part of the total bill so they would get the 4% increase starting July 1, 1975.

Sen. SANBORN: As I remember back in the regular session, the Governor seemed to have objections any time the salary went above his salary. Does this \$33,000.00 go above his salary, do you remember?

Sen. GREEN: No, it does not.

Sen. S. SMITH: On this amendment for hazardous pay, that was for prison and Hospital employees?

Sen. GREEN: That is correct.

Sen. S. SMITH: That is not only nursing employees or what kind of employee?

Sen. GREEN: It is not based on nursing, as such. It says "who are continuously exposed to forensic inmates or patients daily in the normal course of their duties shall be paid." That includes anybody who comes in that category.

Sen. S. SMITH: This does not include Laconia, however?

Sen. GREEN: In that particular issue, no.

Sen. PRESTON: Do I see "Executive Director, New Hampshire Housing Commission" on there twice?

Sen. GREEN: Yes. It shows the two — one is without the raise and one is the new level.

VOICE VOTE: Adopted Unanimously.

Sen. TROWBRIDGE: HB 11 is the classified pay bill in which, as Sen. Green described, there is hazardous duty pay for

correctional officers and there is another provision for the employees of the Hospital, Laconia State School and Youth Development Center of \$260.00 extra per year for those persons who are actively treating the patients or inmates in those institutions. I want to make it clear for the record that it is the legislative intent that the person who decides who is eligible for those extra premium payments shall be the Warden or the appropriate administrator at the institution and that it is not our intention that simply because someone comes in contact occasionally, or even daily with the patients — such as maybe the cook or someone else like that who is in a non-exposed position and the housekeepers — that they are not the persons we were making our calculations on. For instances, there are 216 of those at the Hospital who would not, and were not calculated for in the pay raise. I am putting this in the legislative record so that everybody knows for the future that was our intention.

We have had some dispute at the Hospital as to what the intent of the Committee of Conference was with relation to the nurses at the Hospital, at Laconia and at the Youth Development Center and I would like to read this into the record.

The clear legislative intent of the Conference Committee on HB 11 is that the nurses at the Laconia School and Training Center, the Youth Development Center and New Hampshire Hospital should have their labor grade re-evaluated and upgraded. The Conference Committee would have included a two grade upward reclassification in HB 11 for these nurses, except for their belief that such action is more properly an administrative responsibility of the Department of Personnel, rather than a legislative function. It is the intention of the Conference Committee that the Personnel Department give prompt and favorable consideration to a reclassification and upgrading of the nurses at the Laconia School and Training Center, the Youth Development Center and the New Hampshire Hospital and we urge the Governor and the Superintendents of the three affected institutions to work toward this reclassification.

#### DISCHARGE OF COMMITTEE OF CONFERENCE

Sen. Lamontagne moved the Committee of Conference on HB 5 be discharged and a new Committee appointed on the part of the Senate.

Sen. LAMONTAGNE: This morning, Sen. Green said on

the Senate floor that if I would withdraw myself from the Committee of Conference on HB 5, which has been amended for the increase in truck weights of 10%, he would also withdraw himself from that Committee and I so do at this time.

Adopted.

#### APPOINTMENTS TO NEW COMMITTEE OF CONFERENCE

HB 5, relative to the office of energy administrator.

The President appointed as members of the Committee on the part of the Senate: Sens. Poulsen, S. Smith and Sanborn.

#### CHANGES IN APPOINTMENTS TO COMMITTEE OF CONFERENCE

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; excepting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

The President appointed Sen. Sanborn to replace Sen. Porter.

HB 5, relative to the office of energy administrator.

The President appointed Sen. Ferdinando to replace Sen. Poulsen.

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

The President appointed Sen. Blaisdell to replace Sen. Downing.

#### HOUSE MESSAGES

#### CHANGES IN APPOINTMENTS TO COMMITTEES OF CONFERENCE

HB 5, relative to the office of energy administrator.

The Speaker has appointed Reps. Plourde and Duhaime to replace Reps. Cushman and Hildreth.

### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORTS

SB 9, legalizing special town meetings in Wilmot and Pittsfield, and the Seabrook School District meeting.

HB 11, to increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric aides at the New Hampshire Hospital and making appropriations therefor.

### COMMITTEE OF CONFERENCE REPORTS

Sen. Johnson moved the Senate adopt the Committee of Conference Report on:

SB 9, legalizing special town meetings in Wilmot and Pittsfield, and the Seabrook School District meeting.

The committee of conference to which was referred Senate Bill No. 9, 'An Act legalizing: certain special town meetings in Wilmot and Pittsfield; 1974 annual town meetings in Rye, New Castle, Exeter and Salisbury; the Seabrook school district meeting; the special Hampton Falls school district meeting; the Warner Village fire district proceeding; and the February 19, 1974 postings of March 5, 1974 town and school meetings.' having considered the same report the same with the following recommendation:

That the House recede from its position of adopting its amendment, and

That the Senate and House each adopt the following new amendment to the bill and pass the bill as so amended:

Amend the bill by striking out section 4 of same and inserting in place thereof the following:

4 Town of Rye. All acts, votes and proceedings of the annual town meeting and the adjourned town meeting of the town of Rye held on March 5, 1974 and March 9, 1974, are hereby legalized, ratified and confirmed.

5 Town of New Castle. All acts, votes and proceedings of

the annual town meeting of the town of New Castle held on March 5, 1974 are hereby legalized, ratified and confirmed.

6 Town of Exeter. All acts, votes and proceedings taken at the annual town meeting and adjournment thereof of the town of Exeter held on March 5, 1974 and March 11, 1974, including but not limited to authorization for the issuance of notes under Article 24 are hereby legalized, ratified and confirmed.

7 Town of Salisbury. All acts, votes and proceedings of the annual town meeting of the town of Salisbury held on March 5, 1974 are hereby legalized, ratified and confirmed.

8 Hampton Falls School District. The vote by ballot of the Hampton Falls school district passed at a special district meeting held on December 14, 1973 whereby the district authorized a borrowing of \$402,797 for the construction of an addition to the Lincoln Akerman school is hereby legalized, ratified and confirmed in all respects, and the school board is authorized to issue \$402,797 bonds or notes for such purpose under the Municipal Finance Act.

9 Warner Village Fire District. The organization, powers and boundaries of Warner Village fire district in the town of Warner as established and adopted by the selectmen of Warner and the Warner Village fire district, August 23 and September 2, 1893, as amended August 20, 1927 and February 19, 1937, are hereby approved, legalized, ratified and confirmed. The boundaries hereby legalized are those shown on a certain plan entitled "Plat of the Fire District Precinct, Town of Warner, showing original limits as adopted August 23, 1893 and limits as adopted August 20, 1927", recorded in Merrimack County Registry of Deeds as Plan No. 514, and on a duplicate of the foregoing plan on file in the official records of Warner Village fire district showing the extension of the limits of the precinct as adopted in 1937.

10 Legalizing February 19, 1974 Postings of March 5, 1974 Town and School Meetings. Notwithstanding the provisions of RSA 39:5 and RSA 197:7 to the contrary, the posting of the warrant for any town or school district meeting held on March 5, 1974 which was done on February 19, 1974 is hereby legalized, ratified and confirmed.

11 Town of Brentwood. All acts, votes and proceedings of

the annual town meeting of Brentwood held on March 5, 1974 are hereby legalized, ratified and confirmed.

12 Town of Salem. The vote of the town of Salem passed March 10, 1973 authorizing the borrowing of one million nine hundred thousand dollars for the expansion of the municipal sewerage system is hereby legalized, ratified, and confirmed in all respects, and the selectmen of the town are authorized to issue one million nine hundred thousand dollars in bonds or notes for such purposes under the Municipal Finance Act.

13 Town of Enfield. All acts, votes and proceedings of the special town meeting held in the town of Enfield on January 18, 1974 and all acts, votes and proceedings of the annual town meeting of the town of Enfield held on March 5, 1974 are hereby legalized, ratified and confirmed.

14 Gilford School District. All acts, votes and proceedings of the annual district meeting of the Gilford school district held on March 19, 1974 are hereby legalized, ratified and confirmed.

15 Town of Chester. All acts, votes and proceedings of the annual town meeting of the town of Chester held on March 5, 1974 are hereby legalized, ratified and confirmed.

16 Town of Salisbury, Special Meeting. All acts, votes and proceedings of the special town meeting of the town of Salisbury held on March 16, 1974 are hereby legalized, ratified and confirmed.

17 Town of Bethlehem. All acts, votes and proceedings of the annual town meeting of the town of Bethlehem held on March 5, 1974 are hereby legalized, ratified and confirmed.

18 Haverhill School District. All acts, votes and proceedings of the annual district meeting of the Haverhill cooperative school district held on March 27, 1974 are hereby legalized, ratified and confirmed.

19 Effective Date. This act shall take effect upon its passage.

Sen. Johnson

Sen. Brown

Sen. Blaisdell

Conferees on the Part of the Senate

Rep. Benton

Rep. Hammond

Rep. Sununu

Rep. Ethier

Rep. Bednar

Conferees on the Part of the House

Sen. JOHNSON: This is a bill that started out to legalize one town meeting and then was made the bill to pick up all the miscellaneous problem children around the State, which we did. It left here with two or three towns and the House put in 4 or 5 more and, during the past few days, we picked up 4 or 5 more. That is about the sum and substance of the bill. It legalizes quite a few miscellaneous acts at town meetings and school meetings which had to do with dates, mix-ups, misprints, and so on and so forth.

VOICE VOTE: Adopted Unanimously.

Sen. Jacobson moved the Senate adopt the Committee of Conference Report on:

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

(See House Journal)

Sen. JACOBSON: As all of you know, this bill did pass both Houses of the Legislature and was sent to the Governor's desk. The Governor asked that it be recalled for non-concurrence and a Committee of Conference motion took over. The issue related to the question of how much money an attorney for the Legal Services Corporation could receive. Apparently the Governor objected to a wide-open provision so that the amendment that is adopted is that the most a legal representative from the Legal Services Corporation can receive is \$150.00 per case, except that he may apply for a larger amount to the court. That is the essence of the amendment that is adopted.

VOICE VOTE: Adopted Unanimously.

#### HOUSE MESSAGES

#### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORTS



SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

HB 30, relative to the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

### COMMITTEE OF CONFERENCE REPORT

Sen. Johnson moved the Senate adopt the Committee of Conference Report on:

SB 23, relative to the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

The committee of conference to which was referred Senate Bill 23, 'An Act relative to the membership of municipal planning board and providing for the creation or cooperative regional planning commission, having considered the same, report the same with the following recommendation:

That the Senate recede from its position in nonconcurring with the House amendment, and

That the Senate concur in the adoption of the House amendment, and

That the Senate and House each adopt the following amendment to the bill and pass the bill as so amended:

Amend RSA 36-A:3 as inserted by section 2 of the bill by striking out same and inserting in place thereof the following:

36-A:3 Composition of Commission. The commission shall consist of not less than three nor more than seven members. In a town which has a planning board, one member of the commission may also be on the planning board. In a city which has a planning board, one member of the commission may be on the planning board. In cities, the members of the commission shall be appointed by the mayor subject to the provisions of the city charter, and in towns the members of the commission shall be appointed by the selectmen. When a commission is first established, terms of the members shall be for one, two or three years, and so arranged that the terms of approximately one-third of the members will expire each year, and their successors

shall be appointed for terms of three years each. Any member of a commission so appointed may, after a public hearing, if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

Sen. Johnson

Sen. Jacobson

Sen. Blaisdell

Conferees on the Part of the Senate

Rep. Olden

Rep. Mann

Rep. Hanson

Rep. Burke

Rep. O'Connor

Conferees on the Part of the House

Sen. JOHNSON: The Committee of Conference Report on this was largely the amendment to straighten out the wording as proposed by Sen. Jacobson. The House was adamant in doing anything about regional planning commissions so it is simply a case of receding from that amendment or killing the bill. There were also a couple of other amendments over there. They fixed up the amendment concerning the Concord District and the regional planning one and referred them to a study committee.

VOICE VOTE: Adopted Unanimously.

#### DISCHARGE OF COMMITTEE OF CONFERENCE

Sen. S. Smith moved the Committee of Conference on HB 5 be discharged and a new Committee appointed on the part of the Senate.

Adopted.

#### APPOINTMENT TO NEW COMMITTEE OF CONFERENCE

HB 5, relative to the office of energy administrator.

The President appointed as members of the Committee on the part of the Senate: Sens. Lamontagne, Claveau and McLaughlin.

#### CHANGES IN APPOINTMENTS TO COMMITTEE OF CONFERENCE

HB 24, permitting the use of changeable effective date

designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

The President appointed Sen. Downing to replace Sen. McLaughlin.

### ENROLLED BILLS REPORT

HB 1, making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.

HB 2, making appropriations for capital improvements.

HB 4, providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing consolidated grant standards for categorical assistance excluding shelter.

HB 18, requiring local option for siting of oil refineries.

HB 29, relative to tuition payments for handicapped children; amending the appropriation for same; defining a handicapped child as a person up to the age of twenty-one; and providing for educational and other expenses in public institutions.

HB 34, relative to energy facility evaluation, siting, construction and operations; providing for a tax on refined petroleum products; and establishing an energy facility study committee.

HB 35, providing for twenty years retirement for members of group II under the New Hampshire Retirement System, permitting the transfer of members of the New Hampshire Firemen's Retirement System and of the New Hampshire Policemen's Retirement System into the New Hampshire Retirement System and making an appropriation therefor.

Sen. Paul Provost

For the Committee

Adopted.

### HOUSE MESSAGES

### HOUSE DISCHARGE OF COMMITTEE OF CONFERENCE

### HOUSE APPOINTMENTS TO NEW COMMITTEE OF CONFERENCE

HB 5, relative to the office of energy administrator.

The Speaker has appointed as members of the Committee on the part of the House: Reps. A. Mann, H. Parker, R. O'Connor and Altman.

### CHANGES IN HOUSE APPOINTMENTS TO COMMITTEE OF CONFERENCE

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

The Speaker has appointed Rep. McEachern to replace Rep. Hildreth.

### ENROLLED BILLS REPORT

HB 11, to increase the salaries of classified employees and employees of the university system and the New Hampshire Network and providing differential pay to classified prison employees and correctional psychiatric aides and providing nurses' reclassification at the New Hampshire Hospital and Laconia State School and making appropriations therefor.

Sen. Provost moved adoption of the amendment.

### AMENDMENT

Amend section 14 of said bill by striking out the same and inserting in place thereof the following:

14 Deficiency Payments from Salary Adjustment Fund. In the event the appropriations made by sections 10 or 12 or both are not sufficient for the purposes appropriated, any balance needed to fully implement the provisions of RSA 99:10 and 11 shall be a charge against the salary adjustment fund established by RSA 99:4 and said balance is hereby appropriated.

Sen. PROVOST: This section in HB 11, as written, was in conflict with Sections 10 and 12 of the bill as it implied that the entire funds would be taken from the salary adjustment fund while the intention was only to make up any deficiency from

the salary adjustment fund, if the appropriations in Sections 10 and 12 were not sufficient. This amendment makes this clear.

Adopted.

Sens. Porter and Foley moved adoption of a Resolution in regard to Albert Snay.

Adopted.

## HOUSE MESSAGES

### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORT

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

### HOUSE DISCHARGE OF COMMITTEE OF CONFERENCE

### HOUSE APPOINTMENT OF NEW COMMITTEE OF CONFERENCE

HB 5, relative to the office of energy administrator.

The Speaker has appointed as members of the Committee on the part of the House: Reps. R. Chase, Daniels, Hager, Altman and Plourde.

(Senator Porter in Chair)

## ENROLLED BILLS REPORT

SB 10, establishing a sire stakes program and a standard-bred breeders and owners development agency, and making an appropriation therefor.

SB 17, relative to the New Hampshire Port Authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the University of New Hampshire and making an appropriation therefor.

HB 33, relative to the Winnepesaukee River Basin Control;

and providing for continuation of the study committee on water supply and pollution control commission.

Sen. Paul Provost  
*For the Committee*

Adopted.

### COMMITTEE OF CONFERENCE REPORT

Sen. Nixon moved the Senate adopt the Committee of Conference Report on:

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

The committee of conference to which was referred Senate Bill 27, 'An Act to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances,' having considered the same, report the same with the following recommendation:

That the House recede from its position of adopting its amendment to the bill, and

That the Senate and House each adopt the following new amendment to the bill and pass the bill as so amended:

Amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

1 Capital Murder. Amend RSA 630:1 (supp) as inserted by 1971, 518:1 by striking out said section and inserting in place thereof the following:

630:1 Capital Murder.

I. A person is guilty of capital murder if he knowingly causes the death of:

(a) A law enforcement officer acting in the line of duty;

(b) Another before, after, while engaged in the commission of, or while attempting to commit kidnapping as that offense is defined in RSA 633:1;

(c) Another by criminally soliciting a person to cause said death or after having been criminally solicited by another for his personal pecuniary gain.

II. As used in this section, a "law enforcement officer" is a sheriff or deputy sheriff of any county, a state police officer, a constable or police officer of any city or town, an official or employee of any prison, jail or corrections institution, or a conservation officer.

III. A person convicted of a capital murder shall be punished by death.

IV. As used in this section and RSA 630:1-a, 1-b, 2, 3, 4, and 5, the meaning of "another" does not include a fetus.

V. In no event shall any person under the age of seventeen years be culpable of capital murder.

2 First and Second Degree Murder. Amend RSA 630 by inserting after section 1 the following new sections:

630:1-a First Degree Murder.

I. A person is guilty of murder in the first degree if he:

- (a) Purposely causes the death of another; or
- (b) Knowingly causes the death of

(1) Another before, after, while engaged in the commission of, while attempting to commit rape as defined in RSA 632:1 or deviate sexual relations as defined in RSA 632:2, I;

(2) Another before, after, while engaged in the commission of, or while attempting to commit robbery or burglary while armed with a deadly weapon, the death being caused by the use of such weapon;

(3) Another in perpetrating or attempting to perpetrate arson as defined in RSA 632:4, I, II, or III;

(4) The president or president-elect or vice-president or vice-president-elect of the United States, the governor or governor-elect of New Hampshire or any state or any member or member-elect of the congress of the United States, or any candidate for such office after such candidate has been nominated at his party's primary, when such killing is motivated by knowledge of the foregoing capacity of the victim.

II. For the purpose of RSA 630:1-a, I, (a), "purposely" shall mean that the actor's conscious object is the death of another, and that his act or acts in furtherance of that object were deliberate and premeditated.

III. A person convicted of a murder in the first degree shall be sentenced to life imprisonment and shall not be eligible for parole at any time.

630:1-b Second Degree Murder.

I. A person is guilty of murder in the second degree if:

(a) He knowingly causes the death of another; or

(b) He causes such death recklessly under circumstances manifesting an extreme indifference to the value of human life. Such recklessness and indifference are presumed if the actor causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit or in immediate flight after committing or attempting to commit any class A felony.

II. Murder in the second degree shall be punishable by imprisonment for life or for such term as the court may order.

3 Manslaughter. Amend RSA 630:2 (supp), as inserted by 1971, 518:1 by striking out said section and inserting in place thereof the following:

630:2 Manslaughter.

I. A person is guilty of a class A felony when he causes the death of another

(a) Under the influence of extreme mental or emotional disturbance caused by extreme provocation but which would otherwise constitute murder; or

(b) Recklessly.

4 Bail in Capital or First Degree Murder Cases. Amend RSA 579:1 (supp), as amended, by striking out in line one the words "capital offenses" and inserting in place thereof the following (offenses punishable by death or for murder in the first degree) so that said section as amended shall read as follows:

597:1 When Allowed. Except for offenses punishable by death or for murder in the first degree where proof is evident or the presumption is great, all persons arrested for crime shall, before conviction, be released on personal recognizance or be bailable by sufficient sureties, whichever justice may require.

5 Challenges in Capital or First Degree Murder Cases; Defendant. Amend RSA 600:3, as amended, by striking out said section and inserting in place thereof the following:



606:3 Challenges, Defendant. Every person arraigned and put on trial for an offense punishable by death or for murder in the first degree, unless he stand wilfully mute, in addition to challenges for cause, peremptorily challenge twenty, and in any other case the accused may so challenge, three of the jurors.

6 Challenges in Capital or First Degree Murder Cases; State. Amend RSA 606:4, as amended, by striking out said section and inserting in place thereof the following:

606:4 Challenges, State. Upon the trial of any offense punishable by death or of murder in the first degree, the state, in addition to challenges for cause, shall be entitled to ten, and in any other case to three, peremptory challenges.

7 Release From Life Sentence. Amend RSA 651:45-a (supp), as inserted by 1973, 370:38 by striking out said section and inserting in place thereof the following:

651:45-a Eligibility for Release; Life Sentences. A prisoner serving a sentence of life imprisonment, except one convicted of murder in the first degree or one convicted of murder which was psycho-sexual in nature and committed prior to April 15, 1974, may be given a life permit at any time after having served eighteen years which shall be deemed the minimum term of his sentence for the purposes of this section, minus any credits earned under the provisions of RSA 651:55-a, 55-b, and 55-c, provided it shall appear to said board to be a reasonable probability that he will remain at liberty without violating the law and will conduct himself as a good citizen.

8 Eligibility for Parole; Persons Convicted of Psycho-sexual Murder. Amend RSA 651:45-b (supp), as inserted by 1973, 370:38, by inserting in line two after the word "nature" the following (and committed prior to April 15, 1974) so that said section as amended shall read as follows:

651:45-b Eligibility for Parole; Persons Convicted by Psycho-sexual Murder. A prisoner serving a sentence of life imprisonment who has been convicted of murder which was psycho-sexual in nature and committed prior to April 15, 1974 shall not be eligible for parole until he shall have served forty years minus any credits earned under the provisions of RSA 651:55-a, 55-b, and 55-c and until the board shall recommend to the superior court that said prisoner should be released on

parole. The superior court shall have a hearing on the recommendation of the board at which all interested parties, including the attorney general, may appear and present evidence. If it shall appear to the superior court after said hearing that there is a reasonable probability that the prisoner will remain at liberty without violating the law and will conduct himself as a good citizen, the court may order him released on parole with such conditions as it may deem just.

9 Psycho-sexual Murder Certified. Amend RSA 651:45-c (supp), as inserted by 1973, 370:38, by inserting in line two after the word "murder" the following (committed prior to April 15, 1974) so that said section as amended shall read as follows:

651:45-c Psycho-sexual Murder Certified. Whenever any person is convicted of murder, committed prior to April 15, 1974, the presiding justice shall certify, at the time of sentencing, whether or not such murder was psycho-sexual in nature.

10 Death Sentences. Amend RSA 630 by inserting after section 4 the following new sections:

630:5 Form. Where penalty of death is imposed the sentence shall be, that the defendant be imprisoned in the state prison at Concord until the day appointed for his execution, which shall not be within one year from the day sentence is passed, and that he shall be then hanged by the neck until he is dead. The governor and council shall determine the time and manner of performing such execution, and shall be responsible for providing facilities for the implementation thereof. In no event shall a sentence of death be carried out upon a pregnant woman or a minor.

630:6 Place; Witnesses. The punishment of death shall be inflicted within the walls or yard of the state prison. The sheriff of the county in which the person was convicted, and two of his deputies, shall be present, unless prevented by unavoidable casualty. He shall request the presence of the attorney general or county attorney, clerk of the court and a surgeon, and may admit other reputable citizens not exceeding twelve, the relations of the convict, his counsel and such priest or clergyman as he may desire, and no others.

11 Rights of Accused in Capital and First Degree Murder Cases. Amend RSA 604:1 (supp), as amended, by striking out

in lines one and two the words "a felony the punishment of which may be death" and inserting in place thereof the following (an offense punishable by death or for murder in the first degree) so that said section as amended shall read as follows:

604:1 Capital Cases and First Degree Murder. Every person indicted for an offense punishable by death or for murder in the first degree shall be entitled to a copy of the indictment before he is arraigned thereon; to a list of the witnesses to be used and of the jurors returned to serve on the trial, with the place of abode of each, to be delivered to him twenty-four hours before the trial; and to process from court to compel witnesses to appear and testify at the trial. Provided, however, the justice presiding at the trial may admit the testimony of any witness whose name and place of abode is not on the list hereinbefore provided for upon such notice to the respondent as he, the presiding justice, shall direct whenever in his discretion he deems such action will promote justice.

12 Repeal. RSA 585:1 through 6, as amended, relative to homicide and offenses against the person, are hereby repealed.

13 Sentencing for Second Degree Murder. Amend RSA 651:2, II, (d) (supp) as inserted by 1973, 370:2 by inserting in line one after the word "murder" the following (in the second degree) so that said subparagraph as amended shall read as follows:

(d) Life imprisonment for murder in the second degree,

14 Sentencing for First Degree Murder. Amend RSA 651:2 (supp) as inserted by 1971, 518:1, as amended, by inserting after paragraph II the following new paragraph:

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

15 Effective Date. This act shall take effect on April 15, 1974.

Sen. Porter

Sen. Poulsen

Sen. Blaisdell

Conferees on the Part of the Senate

Rep. Currier

Rep. Twigg

Rep. Record, Jr.

Rep. Alukonis

Rep. P. McEachern

Conferees on the Part of the House

Sen. NIXON: The first thing I want to do is to correct an impression and/or a statement made by me which resulted in an incorrect impression this morning when the subject of SB 27 first came up. I was interpreted as having said — and I do not now recall what I did say — that there might have been some difference between the House amendments to SB 27 and SB 27 as it was first introduced into this Body. There is and was no difference between those two versions of the bill and, if the House amendments were too broad, then SB 27 was too broad in the first instance. I assume the blame and responsibility for not having made that clear in the first instance and, if there is an excuse and there should be none, it is the fact that SB 27 was drafted and available only a short period of time — I think it was a matter of hours if not minutes — before the hearing on the bill before this Body when it was first introduced. If any other impression than what I have just stated was indicated by anything that I have said, it is retracted and corrected.

In the second place, on behalf of the Senate, I would like to commend the conferees on the part of the Senate in respect to SB 27: Chairman Fred Porter, members Andrew Poulsen, Delbert Downing and Clesson Blaisdell. Furthermore on behalf of the Senate, I would like to publicly thank Assistant Attorney General Thomas Rath for his valuable assistance and counsel in connection with the drafting work and legal opinions which led to the Committee of Conference Report you have before you.

Finally, as to the bill itself — the Committee of Conference Report you have before you would amend SB 27 so that it would be neither the House version nor the Senate version as adopted by the overwhelming votes of both bodies. What the bill does and would do, as per the Conference Committee Report, is very simply this.

It would establish clearly and by a clear definition three categories of killing by murderers which would subject them

to the potential ultimate penalty. The first would be the murder, capital murder, of a law enforcement officer in the line of duty — law enforcement officer being defined in the bill. In the second place, there would be murder in connection with the kidnapping of a person and, thirdly, there would be murder for hire — either the person who did the hiring or the person who was paid to do the actual killing. Those three categories — and those three categories alone, none other — would allow and call for the ultimate penalty — execution. Minors have been protected in that no minor, that is a juvenile under the age of 17, could be found culpable or guilty of capital murder so as to be subject to the ultimate penalty of death.

The rest of the categories that were described in the original bill and the House amendments which, as I said, were identical, would be in the first degree murder category. First of all, would be the purposely perpetrated murder or the premeditated murder— the preconceived, deliberate type of murder; second, killing in connection with a rape or an attempted rape; third, killing in connection with a burglary or robbery involving the possession of an armed weapon; fourth, killing in connection with arson; and fifth, killing of high officials of the state and federal government. The penalty for a murder in the first degree would be mandatory life in prison without eligibility for parole or probation.

The facilities for implementing the ultimate penalty would be under the jurisdiction and obligation of the Governor and Council so that has been taken care of. There was not time, obviously, to set up a detailed provision for that in this particular bill.

The right to life amendment has been incorporated in the Committee of Conference Report — that is to say, no pregnant woman shall be executed and, as I indicated previously, no minor would be executed.

For a moment, I would speak to those who are against any death penalty and against possibly even the restricted forms this bill represents. Let me speak to you about the protections available for the accused even if this bill is enacted into law. I am talking about the person who is accused of killing a law enforcement officer in the line of duty intentionally, killing in connection with a kidnapping or killing for hire or hiring to

kill. That person, if accused, would first of all have the rights of all accused — the presumption of innocence; the right to be warned before any statement made by him would be held against him; the right to a lawyer at no cost to him if he could not pay for a lawyer; the right to attempt to put forward the insanity defense which is a very commonly exercised right when you get into this area of killing; the right to the prosecutorial judgment, a practical judgment always involved in any criminal case — the prosecutor, and I have not prosecuted, but I have defended cases not murder for 16 years, has always the practical judgment what degree of penalty will he attempt to persuade a jury beyond a reasonable doubt. That is a very difficult thing for a prosecutor to do — to convince 12 people, by a 12 to 0 vote, of guilt beyond a reasonable doubt, which is far more, by the way, when the jury is so instructed than merely guilt by a preponderance of the evidence or a balance of the probabilities. So he has the right to that practical judgment which the prosecutor must make — does he have enough evidence to go for the extreme penalty in these restricted categories? The accused has the additional and detailed right of the discovery process — the right to know the names and addresses of the witnesses who are going to be called upon to testify against him well in advance of trial and what they are going to probably say; the right to discover, obtain copies of, photograph all exhibits, documents and everything that might be used as evidence against him at the trial, well in advance of the trial. He has the right to a trial of his peers — a jury of 12 persons selected from the county, as the case may be, or the state in the case of the federal government which is not applicable since this is a state law. And he has the right to have his lawyer carefully question each one of the potential jurors who would sit on his case to determine whether any element of prejudice might affect that potential juror's judgment and to have that juror excluded if prejudice appears to be a possibility. He has the right, if convicted, to a stay of execution or I should say, an appeal from the trial court to the supreme court to insure, insofar as humanly possible, that no error of law or in respect to the admissibility of evidence, has been applied or allowed to apply in his case, in which case the conviction would be reversed and he would have the right to a new trial from scratch, assuming the witnesses were still alive, still available to testify against him. He would have the right to a stay of conviction under certain ex-

tenuating circumstances; sometime indefinitely. That would still pertain. He would have the right to a pardon by the Governor and Council even after conviction by a jury if the appeal process were exhausted and it could be shown that he was not, in fact, guilty within the period of a year and a day that the death penalty is required to be applied. And finally, he or she would have the right to a change in the law that might transpire while his case was in process or under appeal — a change in the law by the Legislature. A future Legislature might well, in its wisdom, abolish the death penalty or the Supreme Court of the State or the United States might find the statute under which he was convicted unconstitutional, notwithstanding the best efforts that had gone into its drafting. All of these rights — 10 in number — would still be available for the protection of the accused to insure, so far as again humanly possible, that no error would be made.

Now, let's turn it around a minute and think about the rights of the potential victim or the victim of the type crimes for which we are talking about the ultimate penalty being applied. If this bill becomes law, as I hope it will on the basis of the recommendations of the Conference Committee, the law enforcement officer would have a little more right to security, to know that he would be perhaps a little bit more protected in carrying out his duties. The potential victim of kidnappings would have a little more right than he or she now has in that the type of people who would be engaged in kidnapping for money, as has been happening in other states — it has been suggested it may never happen in New Hampshire and let us hope so; but if it does happen in New Hampshire, that type of people know the law, they would know the penalty available and they might make a decision not to kill the victim of the kidnapping but to leave him or her in some deserted roadway and let them live, even after going through the ordeal of the demands and the ransoms, etc. The right of the potential victim of the murder for hire would be a little bit greater than is available under the present law because, again, the people who are engaged in this type of business, in my judgment, might well, in one or more cases, say why bump him off, let's not do it we might be subject to the ultimate penalty. Who knows one way or another as to whether there is any deterrent or protective effect of the ultimate penalty being on the books as this

Conference Committee would place it. I do not know. The best minds in criminal science do not know. The best minds in our colleges do not know. The best minds in law enforcement do not know. But, human nature being what it is, isn't it more probable than otherwise that in at least one case — one case — some little girl, some law enforcement officer, some potential victim of a murder for hire scheme, might have his or her life saved by the knowledge on the part of the would be perpetrators that, if they did it, they might be subject to retribution of the same kind. And, if only one life is saved by this bill, I submit to you the bill is well worth it and a thousand times more.

I ask you to support the Committee Report and I will tell you on the best judgment I have — and I feel deeply and profoundly this to be true — that if you do, notwithstanding any qualms you may have about society participating in killing, you will, as time goes by, never, never deeply regret your decision because what you are doing by supporting this Committee of Conference Report is not participating in the killing of people; you are participating in an attempt to deter the kind of people who have no regard for human rights and values from perhaps killing one person they otherwise might have. On that basis — the basis of deterrence and protection — I ask the Committee of Conference Report be adopted.

Sen. LAMONTAGNE: I too rise in support of the Committee of Conference Report, although I feel it does not go far enough. I would have liked to see it go further but, as has been said in this Senate before, and I say this again, an improvement can be made when the next session of the General Court comes. Personally, I feel that a person who is involved in poisoning another should be punished and should be punished by hanging. Another thing is for a person who starves another and as I have seen some cases where adults have starved children and children who cannot defend themselves. I figure an adult who does that to a child should be punished and should be punished by death. But, I personally feel at least we are adopting capital punishment and with the capital punishment law in the State of New Hampshire, I feel it is going to scare some of these other people who have been committing murders and we have had many since the Martineau case. Therefore, I feel at least we are going in the right direction and, at this late hour, I do support the Committee of Conference Report.



Sen. SPANOS: I rise in opposition to the Committee of Conference Report. I will try to be very brief. I think I had my say on how I felt about the perpetuation or restoration of the death penalty in the State of New Hampshire. The other day I read in the paper that Governor Thomson thought a death penalty bill would be one of the most important pieces of legislation that came out of this Special Session. Then yesterday I read also he thought one of the most important bills that emanated from the Special Session would be the bill that allows persons to have guns in off-road vehicles. I wonder sometimes on the judgment and the values of those two statements and I, for one, am not going to follow the concerns of someone who indicates that this bill is a great bill and that the one on the cars is also a great bill.

It is very ironic too that several years ago, I introduced legislation that would have provided for limited capital punishment and many of the people who are supporting the bill today, who are in these Chambers, are now very much in favor of it.

Someone asked me this morning why I thought so many states were passing capital punishment bills and I indicated I thought perhaps it was because the political leadership is being intimidated, coerced by outside forces and I think that is the case here today. Many who are in the leadership — and that includes all 24 of us — are being the victims of a very strong effort by a particular publisher who wants this more than anything else and the result is that we are falling in line like so many other people have done and so many other legislatures are doing. This is going to take an act of political courage, they tell me, and that is what I think we were asked to do by His Excellency and others and I think that act of political courage has to come from within each and every one of us — not from without. I am afraid I cannot be as laudatory as Sen. Nixon has been to the conferees for work they have done or for the work of the young attorney. It kind of denotes a victory for people — a victory for humanity. Well, I am afraid I consider the capital punishment restoration a very significant defeat for all that is human and all that is decent and a further erosion, I believe, of what I believe is the innate goodness of all people. So, I am sorry I cannot revel and I *can* say I have regrets if this Senate does pass this measure because I think we are taking a long step down the road to, not the destruction of the Judeo-Christian

civilization, but certainly one which will not help it as long as we champion the cause of the sword over human life.

Sen. BRADLEY: I won't go on at length because pretty much everything has been said that can be said on the subject of capital punishment. But, I do think there are a few specific remarks that should be recorded — that I should record — with respect to this particular Committee of Conference Report.

I am not proud of that particular document and I don't think this Body will be proud of that document. I think it is a mangled piece of legislation which is inconsistent and is a product of a poor and unfair compromise procedure. I just cite a couple of examples of the kinds of inconsistencies and problems and defects I think are in this bill and it is apparent, in attempting to pass anything this important at this late hour through this kind of process. We have defined in this bill, if we adopt it, the most serious form of criminal penalty that we will have in our laws — capital murder — as being the knowingly causing the death of a law enforcement officer acting in the line of duty. That is just "knowing." That does not mean that you intended that the man should be killed; that you intended that result. It simply means you had a knowledgeable state of mind when you were acting and it so happened that a police officer, acting in the line of duty, got killed. That kind of definition, I suggest to you, is as broad as the old definition of first degree manslaughter.

In this bill, itself, it is second degree murder — jumping over first degree murder — before you get to anything which is really comparable. If you will look at section II you will see that second degree murder is the murder of a person where you knowingly cause the death of another who does not happen to be a law enforcement officer acting in the line of duty. Now, I suggest where the mental state is only a knowledgeable state of what you are doing, you are making an awful lot turn on the particular accident as to whether or not the victim happens to be a law enforcement officer in the line of duty and whether or not the person committing the crime happened to *know* that the man was a law enforcement officer and that seems to have nothing to do with this bill. I suggest to you that it is very inappropriate and inconsistent to have a very much lesser degree of penalty in second degree murder for something that is really not that much different from what you have in first degree murder.

Again, just take the next section. This is about kidnapping. Read it carefully. What does it say? Someone knows what he is doing and, before he has attempted to commit kidnapping, someone happens to get killed in whatever activity he may be doing and we are saying that man, mandatorially, necessarily, automatically will be hung and I don't think that is that kind of crime. I can conceive of something which would be hardly punishable by 5 to 10 years under present law and we are saying it is going to be automatically execution.

I think I could go on, but I simply want to point out we have here, I am sure, a bill which we are going to be long sorry for because it is so poorly done and it is done on such short notice which gets to the process by which it was done which, it seems to me, is a rather sad process. As Sen. Spanos said, you can't help but have the feeling that the whole thing that has happened here in the last day or the last few days has been horribly distorted by one particular newspaper and one particular campaign, and that all of us have, to some extent, lost our senses to allow that kind of pressure to produce a document which is as poor as the one before us. I urge you to vote against it.

Sen. JACOBSON: Following out your very fine analysis of the bill, suppose we do have a robber who is in the midst of robbing a bank and he comes rushing out with his bag of money and, as the law enforcement officer comes in, he collides. the law enforcement officer falls on the pavement, he cracks his head open and dies as the result. Would he be subject then to the mandatory penalty?

Sen. BRADLEY: I don't think there is a clear cut answer there.

Sen. JACOBSON: Since he knowingly did it?

Sen. BRADLEY: I think it is certainly a plausible construction of the language. To give the proponents their due, I suspect that probably the prosecutor's discretion would be to try to prosecute that under first degree murder where someone is engaged in the act, in the commission, of robbery. But, your point is a good one that, if the way I read capital murder, the only mental state required is that you are knowledgeable of what you are doing and, in the process under subparagraph (a) a law enforcement officer is killed by you — you must cause it but that does not mean you purposely intended to cause the result of death.

Sen. BOSSIE: From what you say, there is a great possibility that this bill would be unconstitutional?

Sen. BRADLEY: I do think that the inconsistencies between the various sections raise that concern in my mind. Just to give one more instance which I don't think I made very clear. Under the criminal code, the most culpable, highest degree of mental state is purposely. If you act purposely, that is the highest mental state and the most culpable mental state and we put *that* degree, that mental state, in first degree murder — that is one step below capital murder. We have taken the second highest mental state knowingly and put it in the highest category of crime — capital murder. Perhaps that does not rise to being arbitrary or capricious or unconstitutional, but it certainly seems to me to raise that kind of question in my mind.

Sen. BOSSIE: It further appears that at this late hour the choice in the House and in the Senate is either to accept the House Report or this Committee of Conference Report. Which would at least be the most preferable from your point of view?

Sen. BRADLEY: Which is the worst piece of legislation? Is that the question?

Sen. BOSSIE: Which is perhaps the more preferable.

Sen. BRADLEY: To be honest, I have to concede this Committee of Conference Report is a lesser evil. I am not sure though that it is any more likely to pass constitutional tests and I think probably there are more constitutional arguments that could be made about this Conference Committee Report than about the original bill.

Sen. BOSSIE: Then, as a practical matter, in view of the history of capital punishment in New Hampshire where 14 people from the origins of our State have been executed, how many people do you feel will be executed under this or any other law during our lifetimes?

Sen. BRADLEY: Who knows? The only thing I think we can go on in that regard is the Attorney General's statement before our Committee that, had we had the original bill enacted during the period of his tenure, we would have had, I believe, 6 executions in that period of time.

Sen. JACOBSON: I rise in opposition to the Committee of

Conference Report. In fact, I consider these moments tragic. Tragic for many aspects. First of all, I think there is a notion that the way to solve crime is to institute this bill. Somehow we have the feeling that the way to take care of crime, and capital crime in particular, is by an easy solution. Yet, from all of my experience, there are no easy solutions to the problems of crime and, particularly, to capital crime. We think, and I think the public thinks, that if we pass this bill we somehow will reduce crime. I am willing to submit that we will not reduce crime by this method. I think it is also a tragedy that we have only engaged in reactive measures. I think we should have made a searching analysis of proactive measures to find the causal problems of crime, capital and otherwise. I am surprised, for example, that the sponsor of this legislation did not also sponsor some control of gun legislation, particularly the "Saturday Night Specials." Between 60% and 70% of *all* murders in *all* categories result from the hidden gun and, particularly, the "Saturday Night Special." It seems to me that to focus in on one or two or three types of murder is not to answer the question or to deal with the problem. I also think it is tragic because to my mind, at least, this whole important issue has become entangled in political considerations. It seems to me that such a grave issue as this should not be subject to that kind of entanglement; that there should be time for rational discussion on the issue. Reports that I have received indicated there was a great deal of emotion within the Committee of Conference on this Report. I do not think that is the way to legislate. Finally, I think it is a tragedy that we should, at this late hour, make this kind of consideration without really careful thought and directing our attention in a positive way to the solution of crime.

Sen. SANBORN: In part of your remarks, you remarked about the weapons and the "Saturday Night Specials." In other words, do I gather from your remarks we should legislate against the weapon and not against the person who is carrying that weapon — the one who is using that weapon to kill?

Sen. JACOBSON: I think we should look forward with every bit of attention we can to proactively protect our citizens. I just read in the *New York Times* of two cabby murders that occurred last Saturday night in the City of New York over an argument about what the cab fare was and in each instance they pulled out one of these "Saturday Specials" and shot and killed the cabby, one of whom had been a cabby for 20 years.

Sen. SANBORN: But, isn't it true that the State of New York has the most strict gun laws in the country?

Sen. JACOBSON: I do not know what the laws of New York are.

Sen. FERDINANDO: I rise to speak briefly in support of the Committee Report, not because the legislation is written the way it should be. I am sure there are a lot of flaws in it. But I think, if nothing else, it will be some deterrent for somebody between now and the next session of the Legislature that might hesitate to commit one of these crimes. I think if we can accomplish that, I think it may be we have accomplished something.

Sen. PRESTON: Sen. Nixon, you indicated this morning that the bill that came before us in the session was hastily drafted. Are you convinced that today there was sufficient time to deliberate such a far reaching bill as to achieve what you hoped for today?

Sen. NIXON: I can't say I am convinced. I can say a lot of people involved in the issue, some with expertise and some without and all of them with deeply felt feelings, got together in what Sen. Jacobson described was, in some instances, a heated or emotional type situation. They did have the benefit and advice of the best man on this issue that the Attorney General's staff has, who is a good man, and I do think, in the very restricted areas where this bill provides the capital murder or ultimate penalty will pertain, the bill is workable and is not as defective as has been described.

Sen. PRESTON: In your opinion, do you think the conferees were under pressure politically, time wise or whatever — and I note two were replaced — in their deliberations.

Sen. NIXON: I think the conferees obviously, as were all conferees today and always have been, were under a time pressure. I do not believe the conferees were under political pressure.

Sen. PRESTON: Do you think if more time had been allowed, some of the objections as voiced by Sen. Bradley could have been corrected and perhaps exposed to more of the lawyers and judges to let them give this proper review?

Sen. NIXON: I think that had the issue had more time, there would perhaps have been some improvements to the bill.

On the other hand, I think it is fair to say that in respect to all legislation — the longer it is worked upon, the more additional provisions that are added to it, the more questions are raised about it. My own judgment is that this bill is not defective and does provide pretty clearly for the ultimate penalty being applied only in the three restricted categories that have been referred to. And, for what it is worth, I believe this bill meets the constitutional test that pertains to such legislation.

Sen. PRESTON: Are you satisfied that it pretty clearly meets what we are trying to achieve? Did I understand you to say "pretty clearly"?

Sen. NIXON: Yes.

### ROLL CALL

Roll Call requested by Sen. Lamontagne. Seconded by Sen. Sanborn.

Yeas: Sens. Lamontagne, Poulsen, Gardner, Green, Nixon, Blaisdell, Trowbridge, McLaughlin, Ferdinando, Sanborn, Provost, Brown, Bossie and Johnson.

Nays: Sens. S. Smith, Bradley, Jacobson, Spanos, Claveau, R. Smith, Downing, Preston and Foley.

Result: Yeas 14; Nays 9.

Adopted.

(Senate President in Chair)

### HOUSE MESSAGES

#### HOUSE DISCHARGE OF COMMITTEE OF CONFERENCE

HB 5, relative to the office of energy administrator.

### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: I would like to be recognized for a few comments and I will be very brief. I feel I am very much disappointed to see that the House leadership has continued all day putting people on the Committee more than once that kept opposing an increase in weights of 10%. Some of those members that appeared on the Conference Committee have

been misled — have been misled by AAA and have been misled by, not the membership of No. 633, but have misled by the Secretary of No. 633. He appeared at the hearing which we had, as you requested, Mr. President, and AAA had questions and the national figures were given and when I asked them about state figures, they could not answer the questions. Therefore, those members who have been on the Committee through the leadership of the House are considered to have been wrong all day because it wasted the time of members of the House and it wasted our time here in the Senate. It is too bad that we couldn't have had a clean committee and I had offered and I did get off the Committee but, thanks to you, Mr. President, you put me back onto that Committee. Again, I want to thank you very much and I want to thank the members of this Senate for taking all this time and I am very, very sorry for the truckers that they did not get this. I only hope that I am wrong, but I feel the independent truckers are going to give you a strike in this State, and, if there is a truck strike in this State, that means that the Governor of this State will have to call you back — and that goes for the House too. I hope it doesn't happen but it looks like it might happen.

### ENROLLED BILLS REPORT

SB 9, legalizing: certain special town meetings in Wilmot, Pittsfield, Enfield, Salisbury, and Salem: 1974; annual town meetings in Rye, Newcastle, Exeter, Salisbury, Enfield, Brentwood, Chester and Bethlehem; the Seabrook, Gilford and Haverhill school district meetings; the special Hampton Falls school district meeting; the Warner village fire district proceedings; and the February 19, 1974 postings of March 5, 1974 town and school meetings.

SB 23, relative to the membership of municipal planning boards, conservation commissions and historic district commissions.

HB 11, to increase the salaries of classified employees and employees of the university system and the New Hampshire Network and providing differential pay to classified prison employees and correctional psychiatric aids and providing nurses' reclassification at the New Hampshire Hospital and Laconia State School and making appropriations therefor.

HB 30, relative to the civil commitment procedures in the



probate courts and detention and discharge procedures for the mentally ill.

HB 31, authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public and authorizing bonding therefor; provided that if the 1975 General Court by vote of both houses prior to March 13, 1975 evidences its approval the foregoing authority shall on that date be transferred to the New Hampshire transportation authority and the public utilities commission's authority shall be terminated.

Sen. Paul Provost  
For the Committee

Adopted.

#### COMMITTEE OF CONFERENCE REPORT

Sen. R. Smith moved the Senate adopt the Committee of Conference Report on:

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

(See House Journal)

Sen. R. Smith: Nothing is changed in the body of the bill. There is one technical amendment in RSA 260:9a which deals with the replacement of license plates. The original bill said that, upon request, two replacement plates would be provided. The amendment says that one or two would be provided depending on the number needed. The reference to changing the name of a certain road has been taken out. There is another amendment that deals with the exemption of amputees and other disabled veterans. The Committee of Conference Report strikes out the reference to persons who are "unemployable" as a result of such a service connected disability and merely states

that the Veterans Administration certify that they are totally and permanently disabled.

VOICE VOTE: Adopted Unanimously.

Sen. Lamontagne recorded in favor.

## HOUSE MESSAGE

### HOUSE ADOPTION OF COMMITTEE OF CONFERENCE REPORTS

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule making under Title XVIII, until June 30, 1975.

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax.

### COMMITTEE OF CONFERENCE REPORT

Sen. Trowbridge moved the Senate adopt the Committee of Conference Report on:

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

The committee of conference to which was referred Senate Bill No. 2, 'An Act to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption provisions.', having considered the same, report the same with the following recommendation:

That the House recede from its position in adopting its amendments to the bill, and

That the House and Senate each adopt the following amendments to the bill and each pass the bill as so amended.

Amend the bill by striking out sections 15 and 16 and inserting in place thereof the following:

15 Date of Notice. Amend RSA 72:55 (supp) as inserted by 1973, 482:2 by striking out in line five the word "May" and inserting in place thereof the following (June) so that said section as amended shall read as follows:

72:55 Duty of Selectmen or Assessors. The selectmen or assessors shall examine each claim for exemption filed with them and shall approve the exemption if the requirements of this chapter have been met. In the event a claim is disallowed, the selectmen or the assessors shall notify the claimant in writing immediately but in no event later than June fifteenth of the taxable year in question.

16 Date Change. Amend RSA 72:56 (supp) as inserted by 1973, 482:2 by striking out in line three the word "fifteenth" and inserting in place thereof the following (thirtieth) and by striking out in line thirteen the words "tax commission" and inserting in place thereof the following (board of taxation) and by striking out in line fourteen the word "commission" and inserting in place thereof the following (board) so that said section as amended shall read as follows:

72:56 Hearing. Whenever the selectmen or assessors refuse to allow an exemption and the claimant has been so notified, the claimant may, on or before June thirtieth, notify the selectmen or assessors in writing of his request for reconsideration. Upon receipt of such request, the selectmen or assessors shall set hearing date for said claimant and notify him in writing of said date; provided, however, that said hearing must be scheduled for a date within thirty days of the selectmen's receipt of the claimant's request. At said hearing before the selectmen or assessors, the claimant may present such evidence as he can adduce to establish his right to an exemption. The selectmen or assessors shall reevaluate the claim and shall notify the claimant aggrieved by an adverse decision and after hearing shall have the right to appeal to the board of taxation within

ten days of the date of such adverse decision. Said board may order an exemption or an abatement if a tax has been assessed.

Amend the bill by striking out section 20 and inserting in place thereof the following:

20 Public Hearing Required. Amend RSA 72:44 (supp) as inserted by 1973, 482:2, by inserting after paragraph III the following new paragraph:

IV. Prior to any town meeting or city election at which the question of whether or not to adopt or rescind the provisions of this subdivision shall be voted upon, the selectmen or city council shall hold two public hearings at least one week apart on said question. The last of such hearings shall be held not later than one week prior to the meeting or election at which the question shall be voted. Notice of such hearings shall be placed in a newspaper of general circulation in such city or town not later than one week prior to the date of said hearings.

Amend the bill by striking out section 21 and inserting in place thereof the following:

21 Previous Adoptions Nullified. Amend RSA 72 by inserting after section 60 the following new section:

72:61 Certain Adoptions Nullified; Applicability.

I. The adoption by any city or town of the provisions of this subdivision prior to April 1, 1974 is hereby nullified and shall be of no force and effect.

II. Any city or town may adopt the homeowners' exemption in accordance with the provisions of this subdivision, provided however that the homeowners' exemption shall not apply to any city or town for the tax year beginning April 1, 1974, but such exemption may be granted only for tax years beginning April 1, 1975 or thereafter.

Amend the bill by striking out section 24 and inserting in place thereof the following:

24 Homeowners' Exemption, Revocation. Amend RSA 72 by inserting after section 44 the following new section:

72:44-a Revocation. A city or town that has adopted the provisions of this subdivision may rescind such action in the same manner as provided for adoption of such provisions. The question shall be presented for voter approval on a separate

ballot with proper provisions for the voter to clearly indicate his choice and shall be worded as follows:

"Shall the town rescind its adoption of the homeowners' exemption provisions of RSA 72 granting an exemption of up to \$5,000 based on equalized assessed valuation on all owner-occupied units owned by persons less than sixty-five years of age, or an exemption of up to \$10,000 based on equalized assessed valuation on all owner-occupied units owned by persons sixty-five years of age or older, provided, however, that no exemption shall be granted on the first \$8,000 of equalized assessed valuation?"

Upon approval of the question by a majority of those voting on the question, the provisions of this subdivision shall be deemed to have been rescinded and shall cease to have an effect on April first next following the referendum for the tax year beginning on such date and the provisions of RSA 72:39-43 relative to certain tax exemptions for the elderly shall apply in that city or town in such tax year.

25 Elderly Exemption. Amend RSA 72:60 (supp) as inserted by 1973, 482:2 by striking out said section and inserting in place thereof the following:

72:60 Tax Exemption for Elderly.

I. Any resident sixty-five years of age or older of a city or town which adopts the provisions of this subdivision who applies for a homeowners' exemption as provided herein shall not receive a tax exemption for the elderly as provided in RSA 72:39-43.

II. Any resident sixty-five years of age or older of a city or town which adopts the provisions of this subdivision who does not apply for a homeowners' exemption may receive a tax exemption for the elderly as provided in RSA 72:39-43 upon application and qualification therefor.

26 Effective Date. This act shall take effect April 1, 1974.

Amend RSA 72:45 as inserted by section 9 of the bill by striking out same and inserting in place thereof the following:

72:45 Owner-Residents Exempted. Every person who has the legal or beneficial title in equity to real property including a mobile home in this state and who resides thereon and in good faith makes the same his permanent home, or the permanent home of another or others legally or naturally dependent upon

said person, shall be entitled to an exemption of up to five thousand dollars of equalized assessed valuation as determined by the department of revenue administration from all taxation except for special assessments on said home up to an assessed valuation determined by the department of revenue administration; providing, however, that no exemption shall be granted on the first eight thousand dollars of equalized assessed valuation. Said title may be held solely, jointly or in common with others and said exemption may be apportioned among such of the owners as shall reside thereon as their respective interests shall appear. The exemption provided herein shall be allowed on each condominium parcel occupied by its owner and on any other entity recognized at law as realty and occupied by its owner.

Amend RSA 72:39, I, as inserted by section 1 of the bill by striking out same and inserting in place thereof the following:

I. Residential real estate, as defined by RSA 72:29, II, shall be exempted for the tax year beginning April 1, 1974 as specified in subparagraphs (a), (c) or (d), and for the tax year beginning April 1, 1975 and for subsequent tax years as specified in subparagraphs (b), (c) or (d) from taxation; provided, however, if the property within the town or city is not assessed at its full and true market value, the amount of valuation exempted will be that proportion of the total exemption allowed for that particular age that the level of assessments as found by the board of taxation bears to one hundred percent, and if the claimant is:

(a) A resident seventy years of age up to seventy-five, a five thousand dollar exemption; or

(b) A resident sixty-five years of age up to seventy-five, a five thousand dollar exemption; or

(c) A resident seventy-five years of age up to eighty, a ten thousand dollar exemption; or

(d) A resident eighty years of age or older, a twenty thousand dollar exemption.

Amend RSA 72:44, I as inserted by section 7 of the bill by striking out same and inserting in place thereof the following:

I. A town desiring to adopt the provisions of this sub-

division may have the question placed on the warrant for an annual or special town meeting by action of the selectmen or by petition as provided in RSA 39:3. Such question shall be presented for voter approval on a separate ballot and shall be voted as follows:

“Shall the town adopt the homeowners’ exemption provisions of RSA 72 granting an exemption of up to \$5,000 based on equalized assessed valuation on all owner-occupied units owned by persons less than sixty-five years of age, or an exemption of up to \$10,000 based on equalized assessed valuation on all owner-occupied units owned by persons sixty-five years of age or older, provided, however, that no exemption shall be granted on the first \$8,000 of equalized assessed valuation?”

Upon the ballot containing the question shall be printed the word “Yes” with a square near it at the right hand of the question; and immediately below the word “Yes” shall be printed the word “No” with a square near it at the right hand of the question; and the voter desiring to vote upon the question shall make a cross in the square of his choice. If no cross is made in a square beside the question, the ballot shall not be counted on the question.

Sen. Trowbridge

Sen. Blaisdell

Sen. Green

Conferees on the Part of the Senate

Rep. Sayer

Rep. Ferguson, Jr.

Rep. Belair

Rep. Hall

Rep. Belcourt

Conferees on the Part of the House

Sen. TROWBRIDGE: This is a bit complicated and I want to make sure you understand it because people will be asking you about it. As you recall, SB 2 was the elderly exemption bill — 65 and up. We passed it in the Senate with a \$1 million appropriation and in that form it went over to the House. It also had some amendments to it by Sen. Jacobson — amendments to the Homestead Exemption — the Splaine Bill — fixing up the Homestead Exemption. That bill went over to the House and that bill is the base for this amendment — the

Senate version. In the House, the House reduced the appropriation to \$500,000.00 and they also put in amendments first, to the Homestead Exemption and then, at the last minute, adopted a section repealing the entire Homestead Exemption. So SB 2, at that point, was in a great cross fire between the Homestead Exemption of the Splaine Bill and the aid to the elderly. At this point, the Committee of Conference Report takes off from the Senate version and there are three parts of the Committee of Conference Report.

The first are the House amendments to the Homestead Exemption — the Splaine Bill — which they had adopted and which are still desirable. The second are the Committee of Conference amendments to the Homestead Exemption and the third are changes in the elderly exemption, which was the original purpose of SB 2.

Date of Notice. That is a House amendment to the Homestead Exemption and these are just technical changes in the fact that the Committee of Conference is not recommending the outright repeal of the Homestead Exemption so that we are fixing up the provisions of the Homestead Exemption. The date change, that there should be hearings before the Homestead Exemption is put before the voters — all of these are technical amendments to the Homestead Bill. They were in the House amendments and they are still desirable, if you are going to have a Homestead Exemption law. Then there is another public hearing section for two hearings, one week apart and this is again the Homestead Exemption. These are the amendments which are much like the Jacobson amendments and have to do with the Homestead Exemption.

Then, the Committee of Conference begins to strike off on its own. What we are saying is that there are so many problems with the Homestead Exemption and the towns and cities that adopted the Homestead Exemption under the defective law that there are lawsuits all over the place and we think that the whole Homestead Exemption is going to be nullified in its present form. In order to get over all of that litigation, section 1 says "the adoption by any city or town of the provision of this subdivision prior to April 1, 1974 is hereby nullified and shall have no force and effect." The House, as you will remember, wanted to repeal the Homestead Exemption in its entirety — the whole bill. What we are saying is: no, we will start again with the Home-



stead Exemption next year with all the technical amendments of Sen. Jacobson and the Ways & Means Committee of the House that have been adopted up to this point.

Then it says in II, that any city or town may adopt the Homestead Exemption in accordance with the provision provided that the exemption shall not apply to any city or town for the tax year beginning April 1, 1974, which would be this year, but that such exemption may be granted only for tax years — plural — beginning April 1, 1975, the next year. So that as you go into next year the Homestead Exemption could be adopted by a city or town anytime prior to next April.

Then we come to Section 24 — Revocation. In the old Homestead Exemption bill there were provisions for adopting the question to be put to the voters but there were no mechanics for ever revoking the entrance into the Homestead Exemption. So, this was an amendment that had been raised by, I think, Senator Jacobson and others. As we came along in that language as to what the question would be to be put to the voters in the question of revocation, it raised the issue of how should this question be phrased to the voters in the first place. I direct your attention to where it says: "provided, however, that no exemption shall be granted on the first \$8,000.00 of equalized assessed evaluation." There has been a debate as to whether the \$8,000.00 minimum or floor applies in all cases. For instance, Arthur Marx interpreted the statute to mean that if you had \$8,000.01 in assessed evaluation, you were just over the \$8,000.00 mark, that the \$5,000.00 exemption applied in full, whereas it has been pretty well acknowledged by all who have debated this issue that what we are saying is that the first \$8,000.00 is not counted. You can't get any exemption on the first \$8,000.00 and, if you had a \$10,000.00 evaluation home, you would not get a \$5,000.00 exemption — you would get a \$2,000.00; that is the difference between \$8,000.00 and \$10,000.00. So, we are now trying to write the statute to say what we meant to say last time. One way you find you would get legal suits coming up is that the question put to the voters never truly showed the existence or practical effect of the \$8,000.00 minimum. Having made that change in the revocation article, it then shows that we have to make other changes to the question that you would put to the voters to get into the thing and that will come later. We found that out as we went along.

Now, for the first time, we start talking about the exemption for the elderly, which is, or should have been the thrust of this bill in the first place. In section 25, 72:60 I and II are put in to make it clear that, if a town does take the Homestead Exemption in the future, a person can have *either* the Homestead Exemption or the exemption for the elderly but he cannot have *both*. That was never clearly stated. So, Section I, and II simply say that and provide for the either/or proposition.

Then, we come to the real exemption — we are tacking things on here. There is no question this is a complicated and, I think, quite messy way of doing it but we found these things out just today. We come to the exemption for the Homestead Exemption again — 72:45 and you will see in the middle of that paragraph the words “that no exemption shall be granted on the first \$8,000.00 of equalized assessed evaluation.” That’s to make sure that this change in wording that we are doing for the question relates back to the actual exemption statute.

Going on again, we come back to the exemption for the elderly. It was felt that with \$1 million of funding it was absolutely unlikely that you could do that and provide payments back to the cities and towns in any meaningful form if you took the exemption for the elderly all the way down to 65. There just wasn’t enough money in the \$1 million to do that. Knowing that we probably could not get more than \$1 million — \$1 million being in the bill to begin with — it was decided that for the next taxable year, this coming year, the people who are most anxious are those who are 70 and older and, therefore, we opted for the situation whereby we would put 70 and older in the exemption statute this year and 65 and over next year. So we will have time to see how much money is really involved here. By a convoluted method here, it works. You can see it says that beginning April 1, 1974, the people exempted in (a), (c) or (d) are exempted. Well, (a) are people from 70 to 75 years and they get a \$5,000.00 exemption; (c) are people 75 to 80 and they get a \$10,000.00 exemption; (d) are 80 and older and will get a \$20,000.00 exemption. Beginning April 1, 1975, the next year, the paragraphs (b), (c) and (d) are used. (b) is 65 years — this is going down to 65 in the next year — all the way up to 75 and then (c) and (d) are 75 and 85 and older so that in that way, we are phasing into the elderly exemption starting this year. So, if you are talking to a constituent say: “If you are 70 years or

older, you will get the exemption this year; if you are under 70, you will not be pulled into the statute until the next taxable year which starts April 1."

Going on finally, here at the very end, we picked up the question of how you would present the Homestead Exemption to the voters so that it has the same language now as the statute and the revocation part which says in here that you get the exemption provided that no exemption shall be granted on the first \$8,000.00 of equalized assessed evaluation. What that is it is just tying all these pieces together on the Homestead Exemption.

I can't think of anything that hangs together less than SB 2. I can't apologize for it because it came in pieces and bits and it has just been pasted on. But it all does work and the essential thing that the Senate is adopting is that we are saying the Homestead Exemption, which was repealed by the House, has been reenacted in better form with the right questions to be put to voters and hearings and all that — but that will start next year — and what they did this year is null and void on the Homestead Exemption. And over here on the elderly exemption, for those towns which do not adopt the Homestead Exemption, we are starting at age 70 and we are funding it at \$1 million and next year it will be 65 and up. That, I think, does satisfy the House; it does get us the \$1 million back into SB 2 and does hit those who are hardest hit. I was asked today: what do you think or why the rationale that you start at 70 instead of 65? My answer is that most retirement benefits are best for a person at 65, 66, 67 because, when they retire, they retire normally on the basis of their highest pay at that time which would have reflected inflation and, just as we debated in SB 18 about the cost of living increases for those who have retired, it is those who have been on retirement for a while who are hit by the fixed cost of their retirement more than those who have just retired. So that it makes good sense to focus the \$1 million on recompensing the cities and towns for the lost taxes for people over 70 — doing one job right this year and then we will have more experience next year to see how much funding will be needed to go all the way down to the 65 and over being exempted. So, that was the rationale for that decision.

We have fairly good assurance from Maurice Read, who went up in the middle of the Committee of Conference dis-

cussions, to the Governor and told him that we have the \$1 million in and the 70 years of age and he said, O. K., that's all right with me, so that we have tried to check this out so that it is not just flying in the wind.

And that is the Committee of Conference Report.

Sen. PRESTON: This seems to be kind of damned if you do, damned if you don't situation. Is it true that if you vote against this bill, you are voting against tax relief for the elderly? And if you vote for the bill, you are, in effect temporarily at least, disfranchising those 18 communities that determined by means of the ballot box and their vote that they want to exercise the Homestead Exemption Act as it was written?

Sen. TROWBRIDGE: Yes, I think you are right that if you voted against the bill, you would be voting against aid to the elderly. In voting really to suspend this year of the Homestead Exemption, what you are really saying is that those lawsuits, one lawsuit — you perhaps remember the *Concord Monitor* lawsuit against the annual sessions in which they challenged the veracity or whatever of the question being put to the voters — once that issue comes up and it is quite clear that the question was not clear to the voter that there was this \$8,000.00 minimum — that once one of those suits goes through the mill, chances are all the validity of those 18 towns will be thrown out anyhow. So that, rather than wait and have people fixing their tax rates on the basis of something that may be thrown out next September. The testimony in the House — and it is clear that is why they wanted to repeal the whole thing — is that they think that most of those towns which adopted it are having second thoughts and that it is better to take a clean shot and say, O.K., come around again; you have not had these Homestead Exemptions for the last 50 years anyhow; can't you wait one more year and do it right next year? We really are not saying you *can't* have a Homestead Exemption. We are saying you should not have it under these circumstances and you ought to go back and do it again the right way. And it was partially our fault for having the statute unclear.

Sen. PRESTON: Just for the record, the intent — it is your opinion that those communities such as Hampton or Portsmouth or Lebanon that voted this in, they, in effect, would not be implemented because of the legal questions being posed in the courts today?

Sen. TROWBRIDGE: Yes. It is my considered opinion that those suits — and there are quite a number of them already going — will be successful and that the town of Hampton and the City of Portsmouth will not share the benefits, if any, of the Homestead Exemption this year anyhow. That is my opinion and that it is cleaner to get it all over with and save all the legal fees and the folderol and start it off on the right foot. We did make you do it this way in order that the City of Portsmouth next November at election can put this improved question on the ballot so that they can adopt it next November if they want rather than having to wait another whole year around. We have done what we can to make sure they can come back into the process as soon as practical.

Sen. LAMONTAGNE: Did I hear you correctly that this matter has to go back to the cities and towns for them to have a referendum and a vote of the people?

Sen. TROWBRIDGE: Yes. What they did this year is null and void. Next year, though, they will have the right question put to them; they will have provision for two public hearings, which they did not have before; they will have an orderly process by which this can be debated and put to the voters, whereas before it just wasn't orderly and that is what the lawsuits are about.

Sen. LAMONTAGNE: For instance, the City of Berlin does not have another city election for two years. Would you say the proper thing would be to have a special ballot for this November election?

Sen. TROWBRIDGE: I would think, if there were a good deal of sentiment in favor of the Homestead Exemption, that would be the time if you wanted to get it ahead. You can do it by next April, for the tax year beginning next April you can do it. If they feel like doing it, they should have it for the election.

Sen. LAMONTAGNE: On a special ballot?

Sen. TROWBRIDGE: Yes, a special ballot.

Sen. BRADLEY: I think I liked everything I heard and this is good news for the two towns in my District which are very sorry they got themselves into it, I believe. The one question I have is with respect to the mutual exclusivity between the two provisions where you say you can't have both. If the

town has adopted or decides to adopt in the future the Homestead Exemption or the homeowners' exemption, does that mean that no one in that town can claim the elderly exemption?

Sen. TROWBRIDGE: Any person 65 or older in any town which adopts the provisions of this subdivision, that is who applies for a homeowners' exemption, shall receive the tax exemption. So, if the city or town adopts the Homestead Exemption, but a person in that town says, I don't want that, I want to go for the tax for the elderly, he has that option. The same way here in the second part. Anybody who adopts the provision of this subdivision and does not apply for the homeowners' exemption may receive a tax exemption for the elderly as provided. So, it is giving both ways to the taxpayer. Some, a great many, will do better under the tax for the elderly than they would ever do under the Homestead Exemption. The Homestead Exemption primarily applies to really, if we adopt SB 2, people who are younger and who are not covered by the Homestead Exemption. In my humble opinion, it will be better to be under the tax for the elderly than it is for the Homestead Exemption because of the \$8,000.00.

Sen. FOLEY: If someone in Portsmouth has a suit questioning Homestead Exemption and it is found in favor of the person who asked the question and brings the suit and it is declared unconstitutional, will it be unconstitutional in every other town or is it just the city where the question is?

Sen. TROWBRIDGE: No.

Sen. FOLEY: It would be everywhere?

Sen. TROWBRIDGE: Yes, that is what I am saying. It will apply across the board. These suits will all have the same force and effect. That is why I am fairly confident there will be one suit that is going to get there first, saying these questions were not properly put to the voter because they did not know about this \$8,000.00 deal; hence, no one knew and, therefore, all the votes throughout the State are going to be thrown out. So, we are not going to wait for that.

Sen. DOWNING: The Homestead Exemption would still provide a \$10,000.00 exemption at age 65 if adopted?

Sen. TROWBRIDGE: It is \$5,000.00 for people less than 65 and double it for people over 65.

Sen. DOWNING: Yet, if an individual qualifies under the elderly exemption, which is an exemption based on need, they can't take that \$10,000.00 exemption, is that right?

Sen. TROWBRIDGE: They can take one or the other; they can't take both. For instance, the person of 80, where he gets a \$20,000.00 exemption under the exemption for the elderly, he will clearly do better than the Homestead Exemption, especially since the first \$8,000.00 is not held against him.

Sen. DOWNING: I am having a great deal of difficulty making sense out of this, frankly. It appears to me that what is happening here — and you can correct me if I am wrong — is that at 65 years of age, regardless of need, you are going to get a double exemption if your community has adopted the Homeowner Exemption law. At 65, regardless of need, you get a double exemption where, if you are on the elderly exemption which is based on need, you may not get that.

Sen. TROWBRIDGE: You would get only a \$5,000.00 exemption. The only difference is — exemption against what. Let's say you have a \$10,000.00 house. Under the Homestead Exemption, the first \$8,000.00 is not subject to the exemption so you would get only a \$2,000.00 exemption. Whereas, under the elderly, you would get a \$5,000.00 exemption. So, it depends on the assessed evaluation of your home and everything else. You have to take each taxpayer separately. You can't make broad generalities in this kind of discussion. And that is why we say you can take either one — you the taxpayer — you have the option — rather than cutting off his options.

Sen. LAMONTAGNE: But you can't get both?

Sen. TROWBRIDGE: You can't get both.

Sen. DOWNING: Did the Conference Committee give any consideration to giving the communities the right to rescind their vote themselves rather than just legislating it away from them?

Sen. TROWBRIDGE: We did. It was felt that because there was considerable sentiment to kill the Homestead Exemption all the way — you have to remember that was the backdrop of the House amendment and they voted overwhelmingly to kill it. So that *they* were saying that the simple way to do this is to leave the House amendment, namely killing all the Home-

stead Exemptions. *We* were saying, why do that? The problem with the Homestead Exemption is that it is not fixed up right; it is defective. So, within that counter-balance, we were maneuvering. There wasn't much sentiment for trying to fix up retrospectively something that was already known to be defective and have people, who had already been more or less deceived a little bit in the vote, have to go in and vote to revoke something when they really didn't know what they did in the first place. We just thought that was cumbersome and that, if it was agreed that the bill as it was presented to the voters of Portsmouth and Hampton, New Ipswich and I don't know where else had already been defective, why should we make them go back into a special town meeting to undefect it. That was the sentiment of the Conference Committee. We thought it was simpler to say; we believe it will be null and void anyhow why not do it for them — and that is what the bill said.

Sen. JACOBSON: Just to clarify this matter of whether one takes the elderly exemption or the Homestead Exemption — the only class of people who are involved in that choice are those who come under the elderly exemption need factor. The others would not have anything to do with it.

Sen. TROWBRIDGE: Precisely. As I said, you have to look at each taxpayer. You can't make a statement on generalities.

Sen. FOLEY: I speak on this Conference Report with mixed feelings. I am reluctant to go along with the Committee of Conference on SB 2. Portsmouth is one of 18 towns and cities that have adopted the Homestead Exemption law since the last regular session. Forms have already been mailed to every home in the City of Portsmouth. Yesterday and today, lines of people have formed at the Assessor's Office with their applications made out and no difficulty was encountered. The City Assessor went on the air tonight and stated that many people had read the news that the Homestead Exemption was likely to be repealed in the dying hours of the Special Session but they chose to go ahead and file and hope for the best.

71% of the city of Portsmouth favored Homestead Exemption. If it is not a good law, then perhaps they would have preferred to find out for themselves.

But this is not a divided question. We cannot vote for ex-



emption of the elderly and vote against repeal of the Homestead Exemption separately. It's all in one package and it is an impossibility to deal fairly with both issues.

Exemptions for the elderly will give a million dollar return to cities and towns so this is the way my decision has been made with mixed emotions.

### RECOMMIT

Sen. Downing moved SB 2 be recommitted to the Committee of Conference.

Sen. DOWNING: I do not believe we are being fair to the communities that have already adopted this Homestead Exemption law. We have heard — and I heard quite a bit of it today starting out as one of the original conferees — that people have changed their minds. I don't know any people who have changed their minds and my home town is one town that voted for it. I don't know anybody that changed their mind from the time they voted on it and I think it is incumbent on me to uphold the vote of the people in my community. We just gave them this right to vote at the last session because they did not do what they were properly asked to do by many officials. Now we will turn around and take the right from them. I think it has yet to be proven that it is a bad bill. I think the Committee of Conference could have come to a better recommendation than what they did and I think that applies to SB 2 as well — the elderly exemption. I argued with this Body about the \$1 million in there to fund the elderly exemption part of the bill and this Body voted me down. I was the only one standing here in opposition to it. I feel it was incumbent upon you to stand firm and insist upon funding that.

I feel this has been compromised away somewhat and I think that the prestige of the Senate has been compromised somewhat in doing it too. I think a better report than this can be worked out, both for the homeowner or the individual who is supporting the Homestead Exemption, as well as for the elderly exemption part of the bill. I would urge you to recommit SB 2 to the Committee.

VOICE VOTE: Motion defeated by Majority.

Sens. Downing and Foley recorded in favor.

Sen. DOWNING: At this point where it is not going to be reconsidered, I would in fact take it as the lesser of evils and support the Committee of Conference Report very reluctantly. I do not think it was the best effort that could have been made and I find it very disappointing at best, but it is something, I guess.

Sen. LAMONTAGNE: I feel at least we have a bill for our senior citizens and, at the same time I think the Committee did a wonderful job and they ought to be praised for doing it.

VOICE VOTE: Adopted Unanimously.

RECESS TO 11:00 a.m.

AFTER RECESS

(Senator R. Smith in Chair)

#### WITHDRAWAL OF NOTICE OF RECONSIDERATION

Sen. Trowbridge withdrew the Notice of Reconsideration which he had served on the vote to concur in the House amendments to SB 27.

#### ENROLLED BILLS REPORT

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

SB 27, to better protect the safety of New Hampshire citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

HB 24, permitting the use of changeable effective date designations, such as decals, on all motor vehicle and boat registration plates; authorizing the governor and council to establish temporary speed laws; exempting certain functions relative to motor vehicle and highways from the provisions of the administrative procedures act; and exempting the department of fish and game from procedural requirements of their rule mak-

ing under Title XVIII, until June 30, 1975; and providing certain free motor vehicle privileges to disabled veterans.

Sen. Paul Provost  
*For the Committee*

Adopted.

Sen. Sanborn moved the Senate do now adjourn from the Early Session and that when the Senate adjourns it be until Thursday, April 11 at 10 o'clock.

Adopted.

#### LATE SESSION

Sen. Provost moved the Senate adjourn at 12:10 p.m.

Adopted.

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### *Thursday, 11Apr74*

The Senate met at 10 o'clock.

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

O God, our Heavenly Father, grant us grace this day to consider the needs of others.

May compassion be our guide as we set the tone of this legislative year. Help us to bear the burdens of others and help us to meet their needs. Amen.

The Pledge of Allegiance was led by Senators Gardner and Lamontagne.

Senator Brown moved the following Announcement be printed in the *Journal*.

Adopted.

## ANNOUNCEMENT

Office of the  
TOWN CLERK  
HAMPSTEAD, N. H. 03841

April 8, 1974

Mr. President and Senators:

The townspeople of Hampstead, N.H., cordially invite you to attend an "open house" for Doris M. Spollett, Sunday, April 21st, 2:00 to 5:00 P.M.

Hampstead Congregational Church, Main Street  
Hampstead, N.H.

*Over 50 Years of Serving the Community*

School Teacher

N.H. Senator

Representative to the General Court

Selectman — 27 Years

Mrs. Jayne C. Hall  
Town Clerk

Senators Porter and Foley moved the following communication be printed in the *Journal*.

Adopted.

## COMMUNICATION

April 7, 1974

Senator David L. Nixon  
State House  
Concord, New Hampshire

Dear Senator:

This is to express my most sincere appreciation for the Resolution I received today from you and the other Senate members. It was a fine gesture.

I was scheduled for the operation today, but was suddenly advised by the doctors last night that they want me to lose 30 to 35 pounds before surgery. They put me on an 800 calorie per day diet and want me down to 170 pounds in 3 weeks.

Once again, thanks for your thoughtfulness and for that of your fellow members.

Sincerely,

/s/ Jay McDuffee

### SUSPENSION OF RULES

Senator Johnson moved the Rules of the Senate be so far suspended as to allow introduction of a Senate Bill, dispense with referral to committee, notice of hearing, holding of public hearing and that the bill be placed on Second Reading for consideration at this time.

Sen. JOHNSON: This popped up yesterday afternoon. What has happened is that Durham had a vote on a bond issue to build a water tank at their March 9 meeting. They found out yesterday that over 30 days had elapsed between their hearing on the issue and the vote. At the meeting at which the vote was scheduled, they had a lengthy discussion that night over other issues and that led to adjournment to the following Saturday which was 3 days. The bond counsel just advised the Selectmen yesterday afternoon. There are quite a few problems here if we don't get this legalized. They will lose their bid figures. They estimate it will cost a minimum of \$50,000.00 more. There is a bad time factor. It would be at least 45 days to get permission to have another town meeting, advertising, etc. and they would be right into a new building season. I have checked with the Rules Committee and they have no objection to the introduction of this bill. I hope that we can accommodate the Town of Durham and get this thing through. The bond issue passed by well over a two-thirds vote.

Adopted.

### INTRODUCTION OF SENATE BILL

#### First and Second Reading

SB 33, legalizing the authorization of bonds by the town of Durham. (Johnson of Dist. 21 through Rules Committee)

Adopted. Ordered to Third Reading.

### SUSPENSION OF RULES

Senator Johnson moved the Rules of the Senate be so far

suspended as to place SB 33 on Third Reading and Final Passage at this time.

Adopted.

### Third Reading and Final Passage

SB 33, legalizing the authorization of bonds by the town of Durham.

Adopted.

## RECONSIDERATION

Senator Johnson moved Reconsideration of SB 33.

Motion Lost.

## PERSONAL PRIVILEGE

Sen. JOHNSON: Mr. President, I would like to thank you and all my fellow Senators for their extreme courtesy in straightening out this small matter for the Town of Durham.

## SENATE RESOLUTION

Senator Lamontagne moved adoption of Senate Resolution.

Sen. LAMONTAGNE: The reason I am asking for this Resolution and I am not going to hide about it. I have always been frank and I have always been honest and I am not going to be otherwise after 20 years of being in the Senate. I personally feel AAA which considers themselves a non-profit auto club representing more than 67,000 New Hampshire people and at the same time you look at their financial report in the Secretary of State's office and find they are in the black about \$6 million. I feel with \$6 million, and there is absolutely nothing wrong, believe me, there is absolutely nothing wrong, but it seems to me that they are incorporated and their incorporation is a Connecticut incorporation. At the same time, I feel that these people who are supposed to be a non-profit organization are spending a lot of money to defeat taxpayers of New Hampshire and I am referring to the trucking industry that needs to be investigated and I am urging the support of this Senate to refer this matter to the Attorney General to investigate these 1, 2, 3, 4 and 5.

Sen. BRADLEY: Do I gather from your remarks that the

reason you are asking for this is because the AAA opposed the truck bill?

Sen. LAMONTAGNE: Not only that. I personally feel I was more than surprised when I got into the Secretary of State's office and started looking into the record and find the incorporation papers filed by AAA it was a Connecticut outfit and, at the same time, I have known of some Directors named as Directors in New Hampshire but I don't see their names listed in the Secretary of State's office.

Sen. BRADLEY: Do you have any reason to think AAA is on any different footing than many other corporations that might have records over at the Secretary of State's office?

Sen. LAMONTAGNE: Yes. The AAA is competing against businessmen in this State. They sell tires; they sell small gadgets; they are selling batteries and it is my understanding that they also sell insurance. Therefore, they are competing against New Hampshire people.

Sen. BRADLEY: What bothers me, Senator Lamontagne, is that it seems to me the very explicit or implicit idea of this is to take retribution against a corporation that came in and took a position on a bill. Don't you agree this is going to appear as if you are trying to penalize and punish a corporation for having taken part in the legislative process and don't you think that is a very unsound position for this Senate to take?

Sen. LAMONTAGNE: No. I don't feel it is an unsound position when a non-profit organization is using its profits to defeat—and I will be honest with you—independent truckers who have no funds to defend themselves. They have no funds to defend themselves. And I consider this—and this has been going on for the last 20 years I know of AAA has always been against the trucking industry. And at the same time, if they are going to be competing against people who are selling merchandise in New Hampshire and products, then I personally feel it should be looked into whether or not they are paying the profits tax.

#### PARLIAMENTARY INQUIRY

Sen. POULSEN: Shouldn't this have been referred to the Rules Committee before it was introduced?

CHAIR: I think so.

Sen. FOLEY: Senator Lamontagne, as I look over this Resolution, I just have one question. Would you call this a fishing expedition?

Sen. LAMONTAGNE: I have no comment to that.

Sen. SPANOS: As you probably know, I supported the weight increase for the trucks. I was never contacted by the AAA. This is the question I would like to ask you. Why don't you take this Resolution, if you have these complaints about the AAA, go down to the Attorney General and ask him to do it himself without asking us to join you? If you think there are violations of the law in any way, go down like any private citizen and tell the Attorney General to take a look into this AAA procedure.

Sen. LAMONTAGNE: I feel with the backing of the majority of the Senate it would have more bearing than if I went all by myself. That is the reason this Resolution is presented here and this is nothing unusual.

Sen. PRESTON: This Resolution seems particularly distasteful to me, with all due respect to the Senator from the 1st District. I'm certain, as Senator Spanos pointed out, that the Consumer Protection Division of the Attorney General's Office would respond to the questions raised by the Senator as an individual—what you ask in this Resolution. I am bothered, Senator, that you used this Body for such a purpose. It frightens me as a small businessman to think that without any defense whatsoever, innuendos or allegations are made that could tarnish the image of a company that we must consider reputable until proven otherwise. I certainly hope we don't pass such a Resolution and use this Body for such a purpose.

CHAIR: The Chair would state further in answer to the Parliamentary Inquiry by Senator Poulsen, that all of the Joint Rules and the Senate Rules which talk about two-thirds and suspension, etc. refer specifically to Joint Resolutions, Concurrent Resolutions, Bills or Amendments to the Constitution. There is no specification as to Senate Resolutions alone, as the Resolution now before you and, of which by the way, the Chair had no prior notice any more than any of you did. So, in the absence of any expressed requirement for a two-thirds vote, I think the Chair would be obliged to rule only a majority vote would be needed to adopt the Resolution now before you.



Sen. GREEN: Again, with all due respect to the Senator from the 1st District, after having read this Resolution it appeared to me very quickly that if the Senator himself felt this strongly about the situation he, as an individual, could take it upon himself to do whatever he suggested the Attorney General's Office do. I personally feel that this is an affront, an attack on a particular corporation because they have taken a position on a piece of legislation that the Senator from the 1st District supported. I feel when we do something like this what we are saying in essence is to people who get involved in the legislative process: If you don't go along with the will of certain individuals and certain groups, you are going to be in turn punished for your actions. And I don't see that as part of the kind of legislative free enterprise we talk about in this country. Senator Lamontagne had a bill relating to trucks. I understand his feelings about that, but I see no reason at this point in time that he should try to label an individual corporation for their position. I think this is a completely uncalled for Resolution and I urge the Senators not to take any part in it. If individuals, such as Senator Lamontagne, wish to do this, let them do it on their own.

Sen. SPANOS: I rise in opposition to the Resolution as offered by Senator Lamontagne. I think in the question I asked of Senator Lamontagne my thoughts were pretty well expressed. I view this Senate Resolution as a mini-IRS situation where someone responded against the Administration and then they went out and tried to check his tax records and his entire economic situation. I realize it is not in the same tenor because the present Administration is not involved, but it is involved insofar as Senator Lamontagne is concerned. This, to me, is a vendetta regardless of the merits of what the AAA has done and I don't think we should be a part of any effort which in any way minimizes the input of any organization in the deliberative efforts of this Chamber because many of them have always served us in many ways. We know who are the White Hats and the Black Hats when it comes to lobbying, but that doesn't make any difference. They are here for a reason and I don't think that we should take it upon ourselves to sanction a Resolution which I think is strictly a personal vendetta against an organization that has made a very genuine effort in bringing to the people of New Hampshire what they believe to be the truth on the increase in weight matter which we resolved a few days ago.

Sen. S. SMITH: I also rise in opposition to the Resolution. In the 12 years that I have been here I don't believe it has ever occurred before—have we had a Resolution of this type. I would call it nothing more than a witch hunt and an attempt, I think, to curb people's activities in lobbying. I think Senator Preston's comment about small business could go even further. Why not pass this Resolution in regard to an individual? I think this is a dangerous precedent to be set and I hope the Senate will kill it.

Sen. POULSEN: I also rise in opposition to this Resolution. I worked all the way through to get an increase for the truck weights. I still feel they need it but I don't think this is the direction we should go.

Sen. BOSSIE: I would like to also add my opposition to this Senate Resolution for the many reasons that have been stated before. I think this Resolution is nothing short of outrageous.

Sen. FOLEY: I rise in opposition to the Resolution. I am one of the people who voted, because of the emergency crisis, for the fat truck problem and I did so because I felt it was favorable to the truckers who were in a bind and I thought I was helping them. But, as far as further furthering any cause by doing this type of thing, I find it very distasteful and I urge my colleagues to vote against it.

Sen. JACOBSON: I rise in opposition for many of the reasons that have already been stated. But one further reason—this involves an institution that, under the present condition of the Senate that is in terms of procedure has no opportunity to be heard. This is a very critical issue for that organization. I believe that before we ever pass anything like this, they should have the opportunity to be heard—that is to respond to it. In the same way, I opposed the passage of the fat truck bill because all were not given an opportunity to be heard and to respond to whatever proposal was being made.

Sen. LAMONTAGNE: Even if I stand all by myself, I still feel I want to live with my conscience. I feel that for some of you Senators who feel this might be used against small businessmen, I don't believe it. I don't believe it because small businesses are not non-profit organizations. But when a non-profit organization can show some black figures as I have seen in the Secretary of State's office—a profit—and, at the same time being

a Connecticut corporation—and like I said, there is absolutely nothing wrong but this is an out of state corporation I think New Hampshire people ought to know. Some Senators have said I could do this as an individual. Let me tell you—you or I can't do it as an individual. The press right here can't go to the profits tax and be able to get information. How do you expect me to get it? But, if you adopt this Resolution, then the Attorney General can get the information. There is a difference. I said I have been honest and I am still going to be honest. When AAA can turn around and spend as much money as they spend lobbying against taxpayers of this State and then turn around and produce some misinformation—it was said and you know that I was ready to fight for 5 hours. I had a speech prepared of 45 pieces of paper on both sides which was 90 pages. But, when the President of the Senate told me I was not going to be taken off the Committee of Conference, I dropped it. But the main reason why I was mad was because there was some information passed and AAA used some of their funds to pass around some false information that the Governor wanted to take me off of the Committee of Conference. At the same time, the utilities wanted to take me off from the Committee of Conference and I feel I have the right today to introduce an amendment and start investigating these funds because they spend it against me as well as they spend it lobbying against other taxpayers of this State and I think my Resolution is a good one.

### ROLL CALL

Roll Call requested by Senator R. Smith. Seconded by Sen. Green.

Yeas: Sen. Lamontagne.

Nays: Sens. Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Downing, Preston, Foley and Nixon.

Result: Yeas 1; Nays 23.

Motion lost.

### PERSONAL PRIVILEGE

Sen. LAMONTAGNE: This is the worst beating I have taken in 20 years, but let me say that at least when I go back

home, I will be able to relax in comfort because I feel my conscience is good and clear and I can face my people.

### ANNOUNCEMENT

CHAIR: The Chair would state there are some additional guests who should be introduced at this time. While we are in this Session and in many cases for most of the Regular Session, we have been served, waited upon, humored and helped by the Senate Staff. I would like to introduce to you all now, so that we can honor them properly, the Senate Staff who will be our guests at a luncheon now scheduled for 1 o'clock. In the order that they go around the room: Mrs. Betty Hooper; Mrs. Gail Pearson; Jessie Bryl; Marianne Thompson; Ginny Connors; Marilyn Foster; Bobbi Lackey; Gail Gordon; Sandy Hudson; Priscilla Spanos and Lee MacCleery. Will you please stand and be recognized by the Senate.

Also, on the other side of the coin, I am not going to forget the men. Starting off with Dr. Fisher; Milo Cheney; William Gowan in his absence; Bert Snay; Bill White, our Clerk; Carl Peterson, Assistant Clerk; Ed Smith; Dave Carey; Bill Montrone; Lee Kidder. Wayne Vennard is not here.

(Senate Vice President in Chair)

### GOVERNOR'S VETO MESSAGE

State of New Hampshire

Concord 03301

Meldrim Thomson, Jr.  
Governor

April 8, 1974

To the Honorable Members of the  
New Hampshire Senate

With great disappointment I return herewith, and without approval, Senate Bill No. 2, which would provide relief for the elderly and void the adoption of homestead exemption programs in 18 communities.

My reasons for disapproving Senate Bill No. 2 are set forth below.

Tragically, this bill is a raid by some self-serving politicians on the taxpayers pocketbooks.

The relief it promises to the elderly is a cruel delusion because after this year it could vanish entirely without funding in 1975.

The bill would give \$1 million to towns and cities for relief of elderly property owners. However, even state officials indicate this sum is inadequate to fulfill the provision of the new law. And the shortfall in funding would have to be made up from a heavier tax burden on all other property owners.

Local communities now pay slightly more than \$2 million in property tax relief for about 9,500 elderly citizens. The cost in 1975 would rise, under Senate Bill No. 2 to from \$4 to \$5 million.

This unfunded sum would in 1975, (1) either place a crushing burden of taxation on towns and cities, or (2) require enough in new funding from the State to push it to the brink of a broadbase tax.

This bill plays Russian roulette with both the elderly and the average taxpayers, with all barrels loaded, and the politician pulling the trigger.

Already in the special session, responsible Legislators have given substantial relief to several large categories of older citizens.

A cost of living increase was made to all state retirees. A good retirement program was provided for police and firemen.

A sound program of relief for elderly citizens must be adopted. But the dollar size and effect of such a program must first be ascertained.

No one in the Legislature can tell accurately what Senate Bill No. 2 will cost now, next year, or later years.

With available revenues reaching a low point, I cannot in good conscience, sign an unlimited and open ended spending bill.

What will it profit the elderly if they gain relief today only to have it taken from them tomorrow in the form of a broad base tax?

I have worked to help the elderly citizens all through my administration. I shall continue to do so.

They should be relieved of the room and meals tax, the interest and dividends tax, and under a fair and equitable bill, they should be given greater property tax relief. I shall continue to seek these goals.

The measure of the political dealing that went into Senate Bill No. 2 is manifest in the extraneous effort to emasculate the Homestead Exemption Act by nullifying the vote of 18 towns and cities that adopted this law.

Can one really be for home rule when he strikes down a home rule vote taken in good faith and under the provisions of existing law?

Politicians who would use the plight of elderly citizens to satisfy their lust for power and at the same time jeopardize the financial solvency of their state, will surely forfeit the respect of their fellow citizens.

Meldrim Thomson, Jr.

Question: Shall SB 2 be passed, notwithstanding the Governor's Veto.

Sen. NIXON: I rise in support of SB 2 and the concept of meaningful real estate tax relief for our approximately 25,000 elderly home owners in New Hampshire. I do not have a prepared text. My wife and I were in Baltimore yesterday with our oldest daughter about the matter of whether or not she goes to college and where and I am sorry I was not able to be at the scene to talk with some of you or all of you individually on the concept of tax relief for the elderly here in the closing minutes of the Session. At the same time, I might say, although what I have to say is extemporaneous in a real sense of the word, it is nothing more nor less than what I have been saying in respect to old age relief since 1969, my first year of honor in serving in the New Hampshire General Court.

I will make no vote prediction as to the outcome of SB 2. I have not, as some others outside the legislative process have, engaged in any process of trying to influence, persuade or pressure Senators as to how they are going to vote on this issue. Based on the account in the statewide newspaper, there are 7 Senators who have committed themselves publicly to vote

against SB 2 and, if that is so, then, of course, it is a dead issue and I have no reason to doubt the word of those Senators who were quoted.

I think that preliminarily we must face the fact that you here in the Senate on this issue today are really pretty much between a rock and a hard place. I know every single one of you, as I do, desires to see the plights of our elderly home owners somewhat relieved in some fair and equitable way because they cannot continue to confront successfully the average 10% increase in home taxes. They will continue, however, based on my 16 years' experience as a lawyer and as a friend and neighbor to many people in these groups, to face the problem of being required in their declining years, when their life's work has been done in terms of educating children, in terms of defending our country, in terms of supporting all the good things that government must provide, they must continue to confront the absolute necessity of selling their homes, moving to a retirement home or a nursing home in most cases far distant from their own community, their friends, their church and social activities and thus spending their time in the absence of friends, in the absence of comfort, in the absence of the meaningful aspects of life looking at calendars on the one hand and their declining bankbook on the other and wondering which is going to come first—death or poverty. I have no quarrel really with the purists in terms of elderly tax relief who say it is a good thing but must be done only if completely funded from other state tax sources, who are not satisfied with the practically available form of relief we might give the elderly as represented in SB 2, who want us to do this to give SB 2 people, the elderly home owners, some relief from their taxes without the rest of us, even if we are willing to do so, having to pay the small increase to allow these old folks to have the peace of mind that I think we owe them as a society. It wasn't too long ago, you know, in some Indian tribes where the elderly were left to die as the tribe continued on its nomadic way. I would hope, and I know, that the New Hampshire Senate in 1974 is not in sympathy with that type of attitude.

But I do reject the premises, the distortions and the wild assaults of a personal nature made by the political hatchetmen because, unfortunately, the elderly are caught in the middle in this process, as they have been caught continuously since 1969

when the same gloom and doom predictions were made. And yet, since 1969, some 9,000 to 12,000 elderly in our State have received the minimum relief now afforded by the tax exemption laws and no community has gone bankrupt and, to my knowledge, no community resents this additional relief for these unfortunate people.

For just a minute, let us go through the history of SB 2 and its concept. Let us recall that in the first place, the exemptions for the elderly, the concept of it as provided in SB 2, is nothing new; nothing new in New Hampshire's law. We already have on the books, if you will, RSA 72:1 which provides exemptions from the resident's tax for paupers, for insane persons and for widows of veterans. We have RSA 72:3-A which provides exemptions from their resident's tax for armed forces members on active duty. We have RSA 72:28 which provides a \$50.00 real estate tax exemption against the bill for veterans. We have RSA 72:29-A which provides exemptions of \$600.00 against real estate taxes for widows of those serving in the war. We have RSA 72:35 which provides a \$600.00 exemption against taxes for veterans with service connected total disabilities. In none of those categories—and in addition we have the exemption for the blind which you well know is \$5,000.00—was the bill attempted to be defeated nor was it defeated, of course, by any such claim as: this is unfair because it merely imposes upon the rest of us who are willing and able to pay a small increase in taxes so that the people in the categories we attempt to protect can have the small relief the protection would provide. The background of SB 2 confirms the same philosophy. It originated in 1969 as HB 789, which I and 8 or 9 other Representatives including the late beloved Charlie Wildburn of Goffstown had the honor of co-sponsoring. At the same time, here on the Senate Side, Senator Foley sponsored SB 213 with the same concept in mind and, in the closing days of the session, over the objections of the same gloom and doom prophets as are now making their voice so widely known around the State, the House, in deference to the Senate—things were different in those days—dropped its version in favor of the Senate version and that is the existing law providing for homestead or home relief on taxes for the elderly. What is the existing law—the law already on the books? It provides merely that at age 70, if the taxpayer has resided and paid taxes in New Hampshire for 5 years, then he gets an exemption if his income does not exceed



\$4,000.00 and \$5,000 if married, and his total assets, including the value of his home, do not exceed \$25,000.00, the first \$5,000.00 of his equalized assessed evaluation is exempt from local real property taxes. That is the existing law passed by this Body and by the House in their respective wisdoms in 1969 which went into effect in 1971.

SB 2, if adopted, and if the veto were overridden, would provide that at age 70 to 74 and in 1975 at ages 65 to 74, the \$5,000.00 exemption would apply. At age 75 to 79, a \$10,000.00 exemption would apply; and at age 80, if the taxpayer were still living and living in his or her home, they would have a \$20,000.00 exemption, provided they had lived and paid taxes in New Hampshire for 5 years, had income not in excess of \$7,000.00 a year—\$9,000.00 if married—and their total assets, including the value of their home, did not exceed \$35,000.00. There was a \$1 million appropriation attached to this bill—State money to pay back local communities on an equitable basis—by the Senate and, in its wisdom, the House adopted that Senate amendment, offered by Senator Johnson of Dover, as I recall. And just last Spring, the Senate increased revenue to local communities by approximately \$2 million by providing that they would collect and retain the resident's tax income themselves rather than have the State do the collection and pay it out later on. And, in addition, the bill provides an improvement in respect to the Homestead Exemption situation in that it defers the effective date of the Homestead Exemption in 18 communities which have now adopted it for one year and permits those communities public hearings and another affirmative vote so they will have a better opportunity to know what they will be voting on and also, of course, solves the constitutional doubts about the existing Homestead Exemption law which many have already spoken of. And it is estimated, according to the computers and the best legislative research work that is available to us, that, if SB 2 in its present form were adopted by this Body, overriding the veto, and then by the House, by the necessary two-thirds constitutional vote, it would mean a total of 2% effect on the total real estate tax base of New Hampshire. The best estimates we have as to the effect on that, without allowance for the \$1 million appropriation, the \$2 million resident tax increase to towns and cities is that it would mean something in the vicinity of 30¢ to 80¢ per thousand on the tax rate of the average community across the State. The average tax

rate now is \$39.80. I would ask you to consider in this respect that Project ACORN, an elderly funded program by the Federal government to study all aspects of the problem of the elderly had a very, very intensive research project done on all bills relating to elderly tax relief just last Spring and according to Mr. M. Allen Crosby, who wrote that report, SB 2 as we passed it last June—which is very substantially similar to SB 2 now considered by you but the present bill represents a lesser detriment to the local tax base than did that of Springfield, that SB 2 was the best combination of real estate tax relief benefits for the elderly home owners at minimal cost to the rest of us taxpayers who do not qualify for the exemptions in question. Across the country in the last legislative session, some 20 states have adopted legislation of this nature providing for tax relief for the elderly.

And, let's consider for a moment, while we are talking about SB 2, the things we have *not* done for the elderly in 1973-74. First of all, the Senate killed, in its wisdom, SB 25 which would have frozen real estate taxes for all elderly home owners at age 65. HB 293, which provided the same type of exemptions that we now have in mind was passed last June by the House and Senate and then vetoed by the Governor. It was identical in form to SB 2. HB 31 which would have restricted real estate taxes to 8% of gross income—real estate taxes of the elderly, that was killed by the House last Spring. HB 235, which would have merely permitted an increase in the assets an elderly person could hold and still qualify for the exemption was killed by the House last Spring. We did pass HB 661 which is the tax lien law, so-called, which permits elderly home owners to defer the payment of their real estate taxes by asking that a lien be placed on the county records against their real estate which gathers interest at 5% until it reaches 85% of their tax bill and then they are foreclosed upon and then in the event they die in the meantime the tax must be paid by their heirs or survivors before title to the property can be cleared. HB 661, I submit to you, was the real fraud of the legislative session in terms of providing any real relief to prideful, dignified New Hampshire people who do not want to have on their records that they have asked for poverty relief. SB 165 which merely would have provided for a per diem and expense allowance for the Council on the Aging was passed by the Senate and the House and then vetoed by the Governor. SB 2, the bill you have now before you

in substantially the same form, has been passed favorably by the House and Senate on two different occasions—last June and just recently—and on both occasions vetoed. The vetoes are inconsistent with the promises which have been made to the elderly in the name of this Administration and in the name of Republicanism and in the name of all that is good for New Hampshire. As part of his campaign effort, our present Governor promised the elderly during 1972 that his program involved lowering the present \$5,000.00 exemption to age 65 and increasing the asset ceiling limit to \$50,000.00. He also urged exemptions for the elderly from the interest and dividends tax and from the room and meals tax. In his Inaugural Address on January 4, 1973, our Governor said “we shall make every effort to provide some surcease from the financial frustrations of old age through some further relief from property taxes, the interest and dividends tax and the room and meals tax. Our senior citizens deserve some warming rays from the setting sun of life.” On October 25, 1973, speaking to a convention of the elderly in respect to his veto of SB 2, the Governor said: “This is hokus pokus legislation.” He said it was a “political illusion on a sunset horizon of hope.” And he said it would have placed a burden of financing on the already bent shoulders of the State’s property tax owners. And he advised this group of elderly people that his Administration’s greatest contribution to the welfare of elderly citizens was a continuance of the State’s low tax base which in times of severe inflation is a substantial contribution to the elderly and he said finally: “Our Administration has worked diligently and with success in providing and promoting the interest of the elderly citizen.” What he *did not* say was the fact that property taxes are increasing at 10% per year and that the elderly’s income is not increasing at *all* but inflationary and other costs are additionally increasing at an average 8% per year and they are losing their homes because of non-activity and negative activity in the area of tax relief for the elderly.

And, finally, in the Resolution adopted by the Governor and Council calling for the Special Session to commence on February 19, the Resolution called for “financial relief to our cities and towns to help elderly citizens and other taxpayers.” Now, on April 8, SB 2 is described by the Governor as a “cruel delusion” overlooking the fact that he promised, according to Representative Maurice Read, the Governor-appointed Chairman of the Governor’s Committee on the Elderly, that SB 2 as

hammered out by the Conference Committee just last week was satisfactory to him and that he would sign it. And I read regretfully in the paper this morning that Representative Read, Chairman of the Governor's Committee on the Elderly, is submitting his resignation because he feels—and I respect his feelings on this point—that the Committee on the Elderly as Chaired by him *has not met* its obligations to the elderly home owners of New Hampshire. So, it is with real regret that I suggest to you that the elderly home owners of New Hampshire and all taxpayers of New Hampshire have been victimized—and they have been victimized not by the local officials who have been misled by the propaganda they have been receiving, newspaperwise over the weekend, they have been victimized by the hate merchants, the character assignators and the disciples of discouragement and practitioners of the big lie, who have so confused and obfuscated this whole issue that the elderly are caught—caught unfortunately—in the irresolvable web of personal political vendettas. And I am very, very sorry that I happen to be the personality who has brought this upon the elderly by being the victim of these attacks of these characters. I don't mind attacks and I don't mind criticism and I have never complained about it for my own sake and never will. I believe I can take it. But, it seems to me a shame and a disgrace that the people in New Hampshire who so need this relief are having their cause distorted, their aspirations clouded and their desires and hopes for a peaceful old age crippled by the type of vendetta that has been going on, particularly in recent days. Someone once said: "There is nothing so powerful as the truth." Let me just conclude by stating some truths to you. The truth is that tax relief for New Hampshire's elderly home owners has been sacrificed upon the cross of Loebism, the judge and jury at the execution process were Mr. Loeb and Mr. Finnegan and the hangman, by vetoing the bill, is our Governor. But all the cheap-shot editorial distortions of truth and vicious news slanting are negativism and they won't change the real truths. The real truths are that the Governor promised tax relief for the elderly—real estate tax relief—in his 1972 campaign; that we here in the Senate have attempted to deliver within the means available to us and on as fair and equitable basis as our total tax structure permitted within the framework; that in fact, the Administration has offered no affirmative tax relief for the elderly. They have offered no bill providing for an interest and

dividends tax minimization; they have offered no bill providing for room and meals tax exemption for the elderly. One bill of one of those natures never got out of the House with none offered or sponsored by the Administration. And, he has vetoed 3 bills providing tax relief for the elderly—HB 293 and SB 2 twice—after promising his own Elderly Committee Chairman that he would support SB 2 just a few days ago. My conclusion, respectfully suggested to you, is that we are working against a stacked deck. It is stacked against the elderly. It is stacked against the people who care about their concerns. It is stacked against all others who are for meaningful tax reform and the skirmish is today being lost by the elderly because I am going to request that the Majority Leader move at the close of every Senator's opportunity to speak to this issue that the issue of SB 2 be Laid on the Table. The skirmish has been lost. I accept the statements of the Senators publicly made that they cannot support SB 2 in the present context of concerned calls and letters from local tax officials and officers, but the battle is yet to come. It is just beginning. The battle for meaningful tax relief for the elderly in New Hampshire and the reason, of course, for the Motion to Lay this on the Table is to deliver to the elderly and the cause of elderly tax relief a stay of execution, if you will, to keep the concept alive because we will still be in Special Session. I intend to recess the Senate today. And, if the gloom and doom predictions of tax rate damage do not appear to bear out; if the revenues of the State continue to increase over and above the projections as was indicated in newspaper reports just the day before yesterday, and if the Homestead Exemption situation continues to be the snarl that those who spoke about it have predicted, then we will still have an opportunity to rectify the situation in a timely fashion. So, I hope that every Senator will express his conscience, his beliefs and his truths on this cause today and I hope that the New Hampshire Senate, as it has in the past and since I have had the honor of being a member of it, will treat this issue as it has treated all issues—with the compassion, with the concern for human dignity and decency, with the concern for the best interest of New Hampshire and not just the non-resident publisher who pays no resident taxes here a concern for the people and the problems we daily live with and work with and attempt in the small way that God has given us without talents to resolve affirmatively and progressively.

Sen. LAMONTAGNE: Is there any provision in this bill to stop the tax assessors from increasing the evaluation of property of these senior citizens?

Sen. NIXON: As I understand it, the tax assessors—and by the way I do appreciate your having served this term as a member of the Senate Ways & Means Committee and when we had the crowded hearing down there voicing your support for the concept of property tax relief for the elderly; it was very meaningful to the many people who were there—do not revalue local real estate property. That is done by vote of the town and ordinarily by a professional group outside. If you are talking about increasing the tax rate, generally speaking, I suppose that can be done by the governing bodies. There is no guarantee at any time that the rate won't be increased or the evaluation of all real estate in a town won't be increased, but if SB 2 were to be passed and the veto overridden, there would be a guarantee to the elderly that somebody was trying somewhere not only to speak of their problems but to work toward the solution of their problems within the practical, available means of doing so under the framework that we operate on here in New Hampshire.

Sen. LAMONTAGNE: I would like to direct my question in a different way. The board of assessors of the cities with the biggest population or a town—is there any provision to stop them from increasing the evaluation of the property?

Sen. NIXON: No, there is none in this law. This law has implicit in it the obligation of all of us to treat each other as brothers. We are our brothers' keepers our brothers and our sisters—and there is no way you can grant tax exemptions to the blind, to disabled veterans, to widows of veterans, to the disabled or to the elderly without their benefit being matched by an equally increased burden on the rest of us in some way or other. Let's face the facts and the truth on that issue.

Sen. BRADLEY: I rise in support of overriding the veto and second Senator Nixon's excellent remarks. I have really just two points to make, I think. That is: number 1, I urge you not to get lost with the sloganeering in the Governor's veto message because I think these various slogans get in the way of straight thinking. You have to get over the "cruel delusions" and the "crushing burdens" and the "Russian roulette" and the "sunsets" and so on in order to realize what the Governor is saying and what the Governor is saying in the message, I suggest to

you, is totally inconsistent and does not stand up to analysis. He says that he is vetoing the bill on the one hand because it isn't properly funded and because the funding may be taken away in the future. On the other hand, he says he is also vetoing it because of his concerns for the amount of spending it will cause in the future and because it will bring us to the brink of a broad base tax. Now, you can't have it both ways. You can't criticize the bill because it isn't funded on the one hand or because it may not be funded in the future and also criticize it because it is going to cost money in the future. That is just playing games. You either are for the proper funding or you aren't for proper funding if you are in favor of tax relief for the elderly. And the Governor is trying to play it both ways and I suggest to you he is simply trying to obscure the issue with all his wonderful slogans.

Another one of his wonderful slogans, to get to my second point, is this invocation of home rule and I suggest to you that is a phoney issue. In my District, there are two towns—one town and one city—that have adopted the Homestead Exemption, but I feel fairly confident when it comes to the issue of Home rule that what we are really doing is giving those two towns another chance to exercise legitimate informed home rule over their own destinies and that, if given a chance, these two communities will get rid of the Homestead Exemption because I don't think they knew what they were getting into. But, at any rate, we are giving them another chance. So, rather than defeating home rule, adopting SB 2 would allow home rule to be meaningful on this issue of the Homestead Exemption.

(Senate President in Chair)

Sen. SPANOS: I rise in favor of passing SB 2 notwithstanding the Governor's veto. I concur with the remarks of the Senate President relative to the real culprit, if I can use the word, as to the veto of SB 2. I think the fury over SB 2 was generated by a particular newspaper editor. He contacted the city managers, he contacted the town managers, he contacted certain Representatives he knew would comment a particular way. And his headlines cried out for a veto prior to the veto, and one did occur but after a very beautifully orchestrated effort on behalf of the Administration and by the publisher of the *Manchester Union Leader*. You can almost anticipate the program—the way it emanated from the *Manchester Union Leader* head-

lines. First there came the statement by a very powerful mayor from a very large city, followed by another mayor from another large city. Then came the statements by various Representatives. Then came the veto. You almost could predict what was going to happen. Then after the veto, the barrage by the Manchester *Union Leader* asking each person who reads the Manchester *Union Leader* to please contact their Representative and please contact their Senator. Well, all this sound and fury, as far as I am concerned, signified nothing because I received only one telephone call from one individual and I think it pretty well summarizes that this is all a whirlwind of dust precipitated by a man who said he is over 65 and understands the wants and needs of the old people and yet he doesn't even qualify. He earns more. He has many more assets than would qualify. But the point I am trying to get out is that this one call I received was yesterday. A gentleman called me and said: "Harry, I want you to vote against the sales tax or income tax." And I said: "Sir, you don't know it but we are not taking up either sales or income tax tomorrow; we are taking up a tax relief for the elderly." "Oh, I'm all for that." And that is what I am trying to say. This whole thing is a lot of fury signifying nothing, precipitated by one individual and I hope that you will at least vote to table this measure when this issue is raised by the Majority Leader so that we can give this another chance and maybe stay, as Senator Nixon said, a very bad situation when we don't take care of those people who need our help.

Sen. JACOBSON: I notice you support the laying on the table. What is the net effect of doing that?

Sen. SPANOS: I think you might better have asked the question of Senator Nixon. I heard him say that one of the reasons is that over the time period that we are in recess sufficient revenues could be generated by the income producing efforts to later on fund the whole program, i.e., by some new bill or rider—I know you can't tack it onto the veto message, the bill that we have before us—but it could come in as a separate measure. That is one of the considerations which Senator Nixon raised which I think is very good. If the question is here that we cannot properly fund this program, then let's make sure that is the case and, if there isn't the necessary funds to do it, then it can go down the drain. But, if it turns out that the revenues can be generated, then let's support the measure.



Sen. JACOBSON: Your answer intrigues me even more. Is there an intention to continue the Special Session beyond this day?

Sen. SPANOS: Well, Senator Jacobson, I know you have been busy writing your speech but the President indicated already that it was his intention to ask for a recess and not an adjournment.

Sen. JOHNSON: I rise in support of the motion to override the veto and for several interesting aspects. One is sticking to the facts and figures—as you know, I originally came in with an amendment for \$2 million on this bill which were figures which were supplied me by the Municipal Association. In fact, I had this bill way back in the regular session but it somehow never saw the light of day. One thing came up after another. But this time it came in and the word from our worthy Finance Committee was we have so much money, we certainly can find \$1 million and we think it is a valid effort. This was put on SB 2 and it went through. Granted this probably is not enough, but it made a big start toward the program of financing on a State level some of the bills that tend to erode taxes. I think speaking in facts and figures,—and I have spent some time looking into those—we all overlook the fact that there is an exemption already on the books and that must be deducted. The changes this year are from 4 to 7 on a single and 5 to 9 and 25 to 35 on the total assets. On the 70 and 75, there is no change in 1974 whatsoever. On 75 to 80 there is an increase of \$5,000.00; on the 80 up, there is \$20,000.00. I hope we all get there to get the \$20,000.00 but let's hope we will have enough money so we won't need it. Checking around in some of the communities, I think you are going to find a variation depending on the type of community, the change in the community, the number of people of various age levels moving in and out during the years, but I did run through several local communities. I checked one of the towns in my District. They have 12 parcels. It would make relatively no effect at all on their tax rate this year. I am talking this year. I checked in one of the cities in my District and this was quite interesting—the fact that their total loss last year was under \$30,000.00 in taxes. To be exact, 169 parcels at \$575,000.00, the tax rate came out just under \$30,000.00. You have to add that to it and then subtract. By a strange coincidence, the population of this city is 3.3% of the State. We take

3.3% of a million dollars and it comes out about \$33,000.00. In discussions with the City Assessor on this, we could not see that with these changes coming up this year we would pick up a few more parcels with the increase from 75 to 80 and the increase from 80 up and that in no way could that change possibly be more than the 50% of the previous figure. Therefore, this city would make money on it. That is not true of all of them. The other towns I said were 12 parcels. I talked with Mr. McGranahan of Manchester several times. They have a little different situation there. I think in fairness it must be considered. He has his facts and figures. He has 700 parcels in the 75 to 80 and 270 above. That is percentage wise considerably more than the City of Dover. There is no argument there. The towns and cities that are changing their population very rapidly, I think, would come out all right. Basically, I think there are two points. One, is this is a start toward funding some of the measures that have been passed over the years to erode the tax base. And those that have taken the rap of the local tax rates appreciate the start of that principle. It certainly is a challenge to the Legislature in 1975 to properly fund this measure. That is one of the big impacts we will get.

Sen. SANBORN: Did you say that 33% of \$1 million was what?

Sen. JOHNSON: 3.3% of \$1 million is \$33,000.00.

Sen. LAMONTAGNE: I rise in support of the Governor's Veto. As has been said by Senator Nixon, on the Ways and Means Committee I strongly myself was very much in favor of the exemption for our senior citizens. This morning I have introduced a Resolution and it was my personal feelings. But now I am here expressing the feelings of the people I represent up north. I, for one, have received many calls and I have received many calls from some of our senior citizens and I have received some even from our young people who felt that SB 2 would not accomplish what really they wanted. Now, as far as SB 2, my own personal feeling is I thought the Committee of Conference came in with a good compromise until I got home and then my people started calling me and, at the same time, feeling this is going to reflect back on cities and towns as far as for the exemption. I am not going by what the mayor from Manchester or other mayors say, I am going by the people I represent. This is one of the reasons why I am casting my vote in support of the

Governor. Most of them feel that the next session is not too far away and, therefore, we could come out and be able to produce the necessary funds so that it won't fall back on the local communities. I would like to quote a member of the House—Representative Guy Fortier who is certainly over the age of 65 and this is what he said to me—He said, "Senator, I feel I can pay my own taxes if this matter is going to go back and to be supported by the local communities. I would favor the exemption if it could be supported by State funds." Therefore, he has asked me to put him on record in opposition and in favor of the Governor's veto. Now, this morning what I have done is express the feelings of the majority of the people in my area who have called me over the weekend and this is the way I am voting.

Sen. TROWBRIDGE: I would like to address my remarks to the funding of this measure because I think there is a great deal of confusion as to the funding and a feeling that somehow it is arbitrary and capricious. We have heard figures saying it will cost \$4 million or \$5 million to enact SB 2 and I would like to prove by geometric logic that is not true. I have had conversations with the Tax Commission and I think we have to start with what Senator Nixon said as to the impact of the present elderly exemption. At the present time, there are 9,464 persons who qualify at age 70. The total tax loss to the cities and towns in 1972 was \$2,157,750. That was on the basis of \$33 million of assessed evaluation. That is a starting point and that is what is now on the books and in all the calculations and the figures you have heard, that original \$2,157,750 has been included. The cost of what we are doing today—SB 2—is expanding beyond the \$2,157,750 which has already been lost. No one raised the issue when we did it before but here we are raising the issue now. In calculating the effect of SB 2 alone—by itself—remember we had an appropriation of \$1 million and that was not used just arbitrarily. In the Committee of Conference we figured what can we do with \$1 million. Had we stuck with the original bill and gone down to 65 as the exemption date this year, there is no way \$1 million would have done the job. However, in consultation with Maurice Read who was sitting in with the Committee of Conference, what we did was, we said: look we will expand the exemption over 70 and how much will that cost? The effect of SB 2 is that we think that the eligible people will go from the 9,400 level to 10,038—somewhere around the 10,000 mark. Mr. Danie of the Tax Commission

then made some assumptions. He made some assumptions that 50% of the people over 70 are in the 70 to 75 bracket; 25% of them are between 75 and 80; and another 25% are 80 and older. Now, in talking with him this morning, he said: "I know that is a very arbitrary decision and it necessarily increases your calculation of costs on SB 2 because 25% exemption over 80 obviously is a figure that will cost more." Common sense tells me there is no way one-quarter of the people over 70 years of age are over 80. I think we can all realize that and that it is much more likely that 80% of the people are under 75. Even using his calculations, he said this extra cost would be an additional \$40 million of lost tax assesment and that would raise the cost of the present program from the \$2,157,000 mark up to \$3,193,000, which shows that even under his—what I consider to be loose guide—projection of what the cost will be, it only goes up \$1 million. Even using his figures, the \$1 million that we have in SB 2 does reimburse the cities and towns for what we have done in SB 2. It does not reimburse the cities and towns for the 1970 statute which took \$2,157,000 of taxes off the tax rolls. But, in terms of just SB 2, I don't think there is any problem. Frankly, I think the cost will be less than that just on a common sense basis. Let's say you added 2,000 extra householders and the average was—let's say the \$10,000.00 exemption rather than the \$5,000.00 or \$20,000.00—\$10,000.00, that would mean \$20 million of lost assessed evaluation and at the average \$40 tax rate, that would come to only \$800,000.00 so that you would be picking up \$200,000.00 here which could be used against the \$2,157,000 with which we have already burdened the cities and towns. The further question on funding is what happens after this next tax year—the tax year we are talking about is April 1, 1974 to March 31, 1975, that is the tax year in which the \$1 million is appropriated. We cannot possibly appropriate out of fiscal year 1976. This Legislature cannot do that—no way. So that all SB 2 does is say that, come April 1, 1975, when we are back in session, it is the intention of this Legislature to move the exemption down to age 65, but the funding of that particular move would necessarily have to come out of the budget for the next biennial session. So, it is not as if we haven't funded it; it is because you can't fund it in that way because the payments would not be made to the cities and towns until after the tax rate was set and that would be in August of 1975, which is in the fiscal '76 tax year. In working this out with Maurice Read and having these figures at hand, we felt that with \$1 million

in SB 2 we had responsibly funded what we were doing in SB 2. Maurice Read then went up to the Governor—this was late at night on Thursday on our last day of the Session—and said, the Committee of Conference is intending to not go below age 70 but merely expand the exemption over 70; we have \$1 million and we think \$1 million does, in fact, fill the gap of what we are doing. The word came back that this was satisfactory and it was satisfactory to Jim Sayer and the other House Conferees, so I don't want anybody to think that these figures have been merely plucked out of the wall and thrown against something. There is good reason to believe that even with Mr. Danie's figures—and he said: "Look I have to be as pessimistic as I can be in that if it turns out it is more I am in trouble." Under any analysis, it looks like \$1 million will fund SB 2.

I regret that the Homestead Exemption Act is tied into this particular measure. It would make it a lot simpler for me and others, I am sure, if that were not the case. The House was adamant about having the Homestead Exemption Act taken out in its entirety. The Senate Conferees said, well, don't do that, just delay the implementation until next year because, frankly, communities have gotten along without the Homestead Exemption Act for lo these many years. They can go on ahead. But the elderly cannot wait another biennium. That is the cruelty of this thing—that at age 70 there may not be that many more years to qualify for the exemption. So, in our judgment, that is how we ended up with SB 2 to keep the Homestead Exemption somewhat alive but to really make sure we were funding what we were doing in this bill. Now, if there are any questions on that, I will be happy to answer them, but from my point of view, I am going to vote in favor of SB 2 because I think it is a responsible piece of legislation. I think it has met the needs of the Homestead Exemption for the years to come. It is meeting the cost of what we are doing in expanding this exemption and I really resent anybody who says this is not properly funded.

Sen. PRESTON: If we pass SB 2 and the next session of the Legislature does not appropriate funds, what will the total impact be on the communities once we institute this program at age 65?

Sen. TROWBRIDGE: I have not gone into those calculations because really what we are talking about is if we don't

fund in the next session, you will certainly have to amend that bill and bring it back to the 70 years of age level that we have in SB 2. It would be better legislation if you had not put in anything about going into the April 1975 tax year because you can't affect that in this session. That really is a gratuitous statement on our part saying that we will go down to 65 in the next tax year because we have not funded it. I would imagine that the impact of that going to 65 and over would be substantial and when I say substantial, I am talking an extra \$4 million or \$5 million, but I don't have that figure—no one has that figure right now. That is one reason why we did not do it.

Sen. PRESTON: In the event we did not appropriate funds, then the total impact at age 65, provided we don't make any amendments to such legislation, would be \$4 million to \$5 million on the communities?

Sen. TROWBRIDGE: I am just suggesting that in proportion it should be in that proportion. I don't think we would let that go by.

Sen. BRADLEY: You were probably clear on this point, but I want to go over it again. What I understood you to say was that, in your judgment, not looking at it from a pessimistic standpoint, but in your judgment, what is most likely is that if we don't override and we kill SB 2 and all other things being equal people under 65 are going to have to pay more taxes in the coming year than they would if we pass SB 2.

Sen. TROWBRIDGE: It is conceivable and I am being conservative here—the point is that if it turns out that the cost of SB 2, the expansion, is less than \$1 million, then the excess or what was not used could be used to go back to defray the already \$2 million burden on the cities and towns so that there could be \$200,000.00 extra to be used to defray that \$2 million cost which we have already.

Sen. BRADLEY: I thought I understood you to say that the cost of \$1 million was a conservative estimate and not your judgment of what is the most likely cost.

Sen. TROWBRIDGE: Exactly. Mr. Danie is assuming that 25% of the people who would be on are over 80—that 2,500 householders in this State are over 80. I dispute that statement and he doesn't believe it either. He just said, I have to make the most pessimistic judgment I can. So, if that is not true, the extra

cost of this is much less—much less—than the \$40 million he sees going off the tax rolls—much more like my \$20 million goes off the tax rolls. That means that he only projected a \$1 million cost anyhow. If I am right and common sense is right, then it is something less than \$1 million—I can't say how much less, but it could be half of that—but what I am saying is I look at it in another way and say I think we will add 2,000 people to the program and this is an entirely different way of looking at it—that the average would be \$10,000.00 of exemptions and that is \$20 million of total exemptions and taking the average tax rate of \$40.00 which is high and multiply that by \$20 million and you come out to \$800,000.00. That is where I reached the \$800,000.00 which is \$200,000.00 left over for whatever other purposes it would be needed.

Sen. FERDINANDO: I rise against SB 2 and against overriding the veto. I don't think there is anybody here who has any question or doubt as to the intent of the bill. I think the intent of the bill is a very good one. I think we all pretty well agree, but I think what we are talking about here are the mechanics of the bill. The thing that bothers me is that we are talking—a figure has been used by Senator Johnson that there are 25,000 residents over 65. My question is how many of these people are renting and if there isn't enough money in this particular bill, if \$1 million is not sufficient and it does require \$5 million or \$4 million or \$6 million to institute this program, who is going to subsidize the rest of it? I say to you that some of the people who are renting who are over 65 years of old—and I don't doubt there are over half of these senior citizens who are renters—and if they have to absorb it through the landlord's tax increase, it means \$1.00 per thousand and this is an extra \$40.00 and this means they will subsidize these other people and I think there should be some provision in this bill if we are going to help the elderly to be consistent and help all the elderly and not just some of them. I think that is one of the things that is bothering me. On the other side of it is that should there not be a referendum? Should we not let each community decide as long as they have to subsidize the program the way the bill seems to be coming across to us, should they not have their say and decide for themselves whether or not they want to get involved in this program and in what manner and in what way? I think under these circumstances it would be in our interest to wait until the next session which is not too far away and let's

refine this bill, let's try to do the job and come up with a bill that makes sense to everybody.

Sen. BLAISDELL: I rise in support of SB 2. I will vote to override the Governor's veto. This may be the last time I will have the honor of addressing this Body and, if it is, I will always remember that my last words to this Body were to somehow explain to you people that I believe that the elderly of our State should live the last years of their lives in dignity. I will know I have tried my best to convince this Senate that SB 2 is not an ill advised bill as some people would like us to believe. I was on the Committee of Conference, as you know, on SB 2 and on every point Senator Trowbridge went down through every section of that bill along with Senator Green and myself. We asked the Honorable Representative Read on every point if he would go to the Governor and discuss every point. He left the room on many occasions, came back to us and said the Governor agreed. I find this unbelievable that this bill would be vetoed by the Governor. I also read in yesterday morning's paper, the statewide paper, that the Mayor of the City of Keene, Mr. James Masiello would be calling on me to sustain the Governor's veto. Last evening the Mayor of the City of Keene called me. He told me, "Junie, you're right. You vote to override that veto because," he said. "I have read the bill, I have the explanation of the bill and, Junie, you are right." I can't speak as eloquently as the Senate President but he, I think, expressed some views I feel very deeply about. I am not of the same political party as you, Mr. President, but I am sure you and I are in agreement that when we took the oath of office as State Senators, we pledged to make this State a better place to live in. The elderly of our state, I would hope, are included in that pledge. Too long, I think, have we forgotten that what all of us have today, they helped build. Senator Nixon mentioned in his speech that someone once said there is nothing so powerful as the truth. It's a shame that the truth on this bill has never been printed.

I want to close by saying that to me, and this is certainly my opinion, this was not a veto by the Governor of the State of New Hampshire. This was purely and simply a veto by Mr. Loeb, a non-resident of the State of New Hampshire. I hope he enjoys his trips to Nevada. I hope the Governor enjoys his trips to the Bahamas. But I can tell you that the Ida Flanigans of my town have long since lost their security in their aging years and



I don't believe that with what we are giving them today, we are going to add much to their life and the reason is that all of us have failed. I think I apologize to these people because it is evident I did not do my job.

Sen. S. SMITH: I rise in support of the bill, in favor of the bill and against the veto. I think much has been said here today—a great deal of eloquence as to the need for this legislation on behalf of the elderly citizens. I think what has been under-emphasized and what is vital to a number of the towns in the State is the squaring away and the straightening out of the Homestead Exemption. Last July, Mr. President, I voted in opposition to the Homestead Exemption and I voted in opposition to it basically because I felt it was a bill that had been drafted hastily and one which had not been given full consideration. I think SB 2 corrects many of the errors and omissions of that original piece of legislation and there are towns in the State which have voted overwhelmingly in favor of the Homestead Exemption. If this bill does not pass, as debate indicated when SB 2 passed the Senate, these votes will have been for naught because the courts may very easily throw out the Homestead Exemption. We are here in a moment of heat and of haste. I would like to say that in reference to what Senator Spanos said in relationship to the orchestration that brought us here that I received a total of 6 'phone calls in opposition to this bill and asking me to support the Governor's veto. One of these was from Bristol so I naturally referred that 'phone call to Senator Bradley. Four others were opposed and I received a call from Mr. Warren Pease which was my 6th call in regard to this piece of legislation. I think the orchestration has strained greatly and brought forth little. I have not heard directly from the Governor's office except for the message here, but I will say that as far as the Town of Plymouth is concerned and I am not sure of Tilton, both of which have adopted the Homestead Exemption—our town was reevaluated by the State Tax Commission a year ago and the evaluation of the town of Plymouth doubled so that many of the people who have been under the present old age relief from their property taxes are no longer getting any benefit from it and I think for that reason alone this piece of legislation is necessary. I hope that the Senate will go along and defeat the present veto.

Sen. BRADLEY: Would you believe that the 'phone call

you referred to from Bristol was taken by my wife and, after my wife talked with the man—I was not there—she was convinced that he was really in favor of the bill and did not understand it. And, further, would you believe that I did not receive any other 'phone calls opposing the bill?

Sen. S. SMITH: I would believe it.

Sen. JACOBSON: As I understand it from Senator Spanos, we will not be voting on that anyway; we will be voting to table the measure and I have a concern about that. However, I think it is important to remember two things.

First of all, we are dealing with two bills. We are dealing with the Homestead problem which is a serious problem and we are also dealing with the elderly exemption. I supported both of them. In fact, with regard to the Homestead Exemption, I had a few amendments that really became the body of the bill ultimately. I think there is one problem I would like to say that makes it difficult with respect to SB 2 and that is we do provide an elderly exemption but, at the same time, we do not provide exemptions for a lot of people who suffer economically equally and I am talking about the young home owner with two or three children who works at \$90.00 a week or \$125.00 a week and has to bear the burden and, while we do not have any complete figures, surely there is some shift whenever we grant an exemption to some group of people, there is a shift of the tax burden to some other group. This is the problem that the Legislature has not yet resolved. I think ultimately we have to get down to the hard question of either providing a new method of supporting public expenditures or move in the direction of reducing these public expenditures so as to relieve the burden in one or another way. I don't see much hope in reducing the expenditures so that the only hope lies in the fact of moving in the direction of finding a more equitable way to support these public expenditures so that ultimately those people who suffer economically as the result of a heavy burden of taxation the most will then have an opportunity to have the maximum relief. So that, while we are not going to vote on it, as I understand it, I would vote to override the veto of the Governor.

Sen. DOWNING: I rise in support of SB 2 and in opposition to the Governor's veto. It has been said here previously, and I would just repeat it, that this bill has two different faces—

one dealing with the exemption for the elderly, the original SB 2 and, in my opinion at least, the horrible amendment that was put on there by the House. If there is any redeeming quality to the amendment put on by the House, it has to be that they changed the effect of the Homestead Act on the present elderly exemption. Those Senators representing communities that have adopted the provisions of the Homestead Exemption Act have a particularly difficult problem, as I have, because you can't vote on this question—on this bill—without changing a previous position or a benefit that the people now have. For example, if you have a community that has adopted the provisions of the Homestead Act, then right now and if the veto is sustained, the people who enjoy the elderly exemption currently on the books may not enjoy it any longer and they may not know any exemption under the Homestead Act because of the \$8,000.00 minimum assessment that is there. You have some elderly people living in property that don't meet the \$8,000.00 minimum assessment. When you adopted the provisions of the Homeowners Act, you qualified the elderly exemption. Up to this year they were getting up to a \$5,000.00 exemption and they had every right to expect it again this year. But, if your community adopted the Homeowners Act, they are not going to get it except as the statute will be \$8,000.00 minimum. The bill we have before us corrects this. It says that the communities that have adopted the provisions of the Homeowners Act that either one or the other can apply. So, we are nullifying a local vote in the adoption of this and telling the people who voted for it you will have to vote for it again. The earliest you can adopt it is '75. We are also saying that the elderly shall enjoy the exemption we had given to them originally and I guess it is a matter of two obligations and the question is, at least to myself, which obligation came first. The obligations to the elderly in the form of the exemption came first. It was on the books first and I think it is one that we have to live with and that we have to honor. And the only way we can honor that, at least in those communities that have adopted the Homeowners Exemption Act, is to override this veto. It is a little concern to me, frankly, the funding and I notice I was quoted in some newspaper and nothing was more out of context really. I think the burden of the funding belongs with the local communities as far as the elderly exemption goes. I think the burden of the budget is established in the local community by the people and the elderly exemption

merely redistributes that burden so that while young people are struggling at least they have the capacity to improve their income and improve their lot in life, but the elderly, at least for the most part, are on a fixed income. And it is a question of whether they are going to have a home or they are not going to have a home. It just doesn't seem to me there is any room for questioning the validity of the elderly exemption—the need for it. I was more than a little bit disturbed that in the Governor's rejection of SB 2, he had some, as I recall, derogatory remarks about the people who are sponsoring this or the people who have endorsed this or are pushing this particular thing and he might have referred to it as a hoax or something equally ridiculous. I really think the basis for this type of criticism is the conflict he has with the President of the Senate and I said this when I asked the Rules Committee to accept SB 2 for the Special Session, which they approved. I think the Governor recognizes the President of the Senate as some sort of a political threat and just isn't going to be a party to anything that is going to enhance his position or his image among the electorate of this State. It is very unfortunate that a matter as worthwhile as the elderly exemption has to be forfeited over this type of conflict. I don't think it has any place in the consideration on the merits of the bill but it is there and I think anybody would be absolutely foolish to deny it. It also amuses me when they put anybody who supports SB 2 in the same package. As you know the President of the Senate and I have disagreed in a number of instances and recently too—capital punishment, the difference between the Governor and the Advisory Committee on Health and Welfare, campaign expenses—and we disagree too, I think, on the possibility of the present Governor returning in 1975. I am inclined to think he is going to be here in 1975 and this concerns me more. Twice now he has vetoed exemption bills for the elderly. Twice he has had them before him, all the time talking about he is going to support the elderly; he is going to help the elderly. But twice the very bill that allows them to keep their homes, and nothing is more basic than your home, he vetoed it; once because it did not have funding; the next time because it did not have enough funding. Well, in my opinion, I don't think it is ever going to have enough funding or be satisfactory for him to approve. And in his Veto Message, he referred to “the relief it promises to the elderly is a cruel delusion because after this year it could vanish entirely without

funding in 1975." Well, it seems to me that if he was really interested in funding this, that his budget message would have stated that in 1975 he would see that it was funded. Let him put his money where his mouth is. If he wants to fund it, let him put it on the line that he is going to fund it or that he is going to do everything in his power to do it. It is completely negative. He just doesn't want to have this provision for the elderly. I think he is wrong and I think we should override the veto. I urge you to do so. And, as I tell you, in doing it, it is no panacea for me because I have a problem no matter what the Senate does with this bill. Either way, I disagree with that part relative to the Homestead Exemption that would abolish that vote, or nullify the vote people took in those communities. I feel very strongly about that. But, cleaning up the elderly exemption area is more significant. I am very, very disappointed in the activities of the House relative to this. The Conference Committee I was originally on, the Chairman of the House Conferees and myself as Chairman of the Senate Conferees had agreed on a compromise and on a Committee of Conference Report that would have cleaned up this whole statute area so that the things we wanted to accomplish could have been accomplished on this Homestead Act. It was agreed on. Myself and the Chairman of the House Conferees went to Legislative Services and had it drafted. We spelled it out. It was in the process of being drafted and we come downstairs here and the House Conferees had already changed their minds. That is when I left the Conference Committee and the result is what we have before us today. Well, it is the best of a bad bargain. That is all that can be said for it as far as the Homestead Act is concerned. But I certainly urge that you give a vote to the elderly people of this State. Because there is one thing the President of the Senate and I do agree on and that is the need of the elderly for this exemption. It has to be improved. There was a Senator here who asked about the assessment—whether assessment could be increased to offset these exemptions. They can be increased. There has been talk that it has been done in individual cases. I don't know the merit to those but legally you can't be increasing indiscriminately like that. You have to increase everybody on the same basis so it should wipe it out if it is done fairly. If the assessment and the reassessment is done fairly, everything should go up. It is all relative and nobody is really going to pay a penalty like is being suggested. I urge you to support SB 2.

Sen. LAMONTAGNE: Did I hear you correctly? Did you say the assessments of property—that the assessor has to do every one of them?

Sen. DOWNING: What I am trying to tell you, Senator, is that if because one taxpayer has an exemption, an elderly exemption or a Homestead exemption, that if the assessor wants to go out and just increase the value on that property, I am saying he could have a real legal problem.

Sen. LAMONTAGNE: Have you been familiar that during the veterans exemptions that some cities did increase their evaluation to veterans?

Sen. DOWNING: I have heard about that and in cases where it was challenged, to my knowledge, it was proved that others were adjusted on the same formula on those particular properties.

Sen. LAMONTAGNE: I disagree.

Sen. SANBORN: I rise in favor of sustaining the Governor's veto. We have heard quite a lot of language and quite a lot of figures thrown at us this morning. However, I represent quite a few so-called bedroom towns. In addition to their being bedroom towns, they have many homes for the elderly. I would say some of them run as high as 10% and 12%. I cannot agree with the figure that has been given us that \$1 million will sufficiently cover the provisions of this bill. And, having observed the Legislature in the last regular session appropriation bills, especially to the extent of estimated \$5 million to \$6 million for 1975, stay bottled in Appropriations Committee until late June. This does not seem to take care of the following year.

I would like a moment to look at the other side of the coin, as Senator Jacobson touched upon. I had one constituent call me. His take home pay is \$85.00 a week. He works for the State. He is a young man and he is trying to establish a home in the town of Northwood and he is trying to raise a family and he is trying to meet his tax bills. Any increase will practically wipe him out. What we are doing with this bill, as far as I see, in these small so-called bedroom towns that don't have industry, etc. to spread out the taxes is forcing the young people out of these towns into a place more favorable. We are trying to make these towns into old age homes. I have nothing against old age.

I am fast approaching the place now where this bill would affect me and probably could help me, but I just can't see trying to do this in a hurried manner as we are right now. What I would like to see personally is a committee appointed, as before suggested, a study made of this problem and a good sound bill properly financed be brought in at the regular session in the next 6 months.

Sen. BRADLEY: I respect your judgment on fiscal matters, but I wonder could you tell us on what basis you say that the \$1 million will not be enough to fund SB 2.

Sen. SANBORN: I can't give exact figures not having access to the computer service. However, I have read figures that some of our citizens have already indicated that from one \$700,000.00 another \$300,000.00, etc. it will cost us—that is the mayor in two cities.

Sen. BRADLEY: You heard Senator Trowbridge's analysis this morning. I gather from what you are saying you dispute that has any validity?

Sen. SANBORN: I won't dispute that it might not have some validity. However, it is based on assumptions and I have noted here a few times in the past that assumptions aren't always correct.

Sen. TROWBRIDGE: In the figures you quoted of the two cities, would you say that those figures included the present Homestead Exemption that is presently on the books? \$700,000.00 and the \$300,000.00 may include what is already on the books since 1970, do they not?

Sen. SANBORN: I understood from what I have read in the paper, and that is the only thing I can quote, that this is in addition.

Sen. GREEN: In my District during the last 3 or 4 days, I have received a number of 'phone calls. I apparently have a very active communication system via the telephone. The fact of the matter is that the majority of those calling were against SB 2 because they had, at that point in time, been convinced that voting for SB 2, whatever it was and very few of them knew exactly what it was, would in turn mean a broad base tax. That became the nut of this whole issue. As I spoke to these people, both by the 'phone and personally calling upon some of them

at their homes and presenting to them what the real bill was, what it was intended to do, the majority of them made it very clear to me they did not understand it that way and that their only means of communication about the bill was what they read in the news media or saw in the news media. Here, in my opinion, is a very good opportunity for the Legislature and the Governor to cooperatively get together and do what we are trying to accomplish for the benefit of the elderly of this State. In terms of finances of this bill, I am convinced as a member of the Ways and Means Committee and a member of the Finance Committee and as a member of the Conference Committee on this bill, that \$1 million in addition will take care of the first year of this bill. I think we can support that. I substantiate in my findings what Senator Trowbridge has said. They are valid assumptions that you can expect to happen. I am also convinced that the way the law is written in SB 2 as it would become effective in 1975 that here is where the Legislature and the Governor's office have got to get together and cooperatively say: yes, we want something for the elderly; yes, we agree with you Governor that it requires more funding; what do we do to accomplish that? I am getting very disturbed about the constant bickering and fighting when we all really want to accomplish the same thing. But I am afraid that there are too many people speaking out of both sides of their mouths. I think this bill has merit. I don't think there is any Senator sitting here right now as you review the voting records of the Senators you will find that they have sponsored or favored this kind of legislation. But the political pressure is on now and all the language and all the titles have all been thrown out and name calling has taken place and now it is no longer the issue of helping the elderly, it is now the issue of who is going to be ahead of the game politically. I could care less about that. I received 'phone calls in which I was threatened that if I voted to override the Governor's veto, I would never have their support again. That is all fine and dandy because they believe that a bill like this is going to accomplish something which there is no evidence to support. The bill as it is written does do what I feel as a member of those committees we all desire to have happen for our elderly in terms of property exemption. The bill does straighten out something which I supported—the Homestead Exemption bill—it does straighten out some things that were radically wrong with the mechanics of implementing that bill and there are lawsuits pending in the courts and I think we can do something at



this point in time to alleviate that so that it doesn't happen. If doing what I in my own good conscience know is right and politically is suicide, then I guess I am not going to be a very good politician. There is no one better in this group who knows what is in these bills, regardless of what is said in the newspapers. We know what is in those bills and, if you don't know, you should know by now what is really in the bill—not what is said to be in the bill—how much it is going to cost. I would like at this point in time to go on record as saying that, if this Senate, in their wisdom, would understand that overriding this veto does not mean that you are for a broad base tax that if overriding this veto would say to you and to us as a group to work cooperatively with the Governor's office to make sure in 1975 that whatever process we have to use that the actual amount of money necessary or at least a large portion of the money necessary is in the law passed by the 1975 Legislature, I think that is the route to go. I don't see the need to kill this whole thing for reasons other than what the real issue is and that is helping the elderly.

#### LAY ON TABLE

Senator Porter Moved SB 2 be Laid on the Table.

#### ROLL CALL

Roll Call requested by Senator Lamontagne. Seconded by Senator Green.

#### PARLIAMENTARY INQUIRIES

Sen. POULSEN: If it is laid on the table, what will be the ultimate? What happens to it in the long run?

CHAIR: What happens to SB 2 if it is laid on the table is up to the majority of the Senate. The bill cannot come off the table unless a majority of the Senate in session vote so to do.

Sen. POULSEN: Would that have to happen today since this is the last legislative day?

CHAIR: It depends, Senator, upon the manner in which the Senate closes its action today. If the Senate recesses today, then the Senate could come back on another day, unpaid, and reconsider its action, take the bill off the table and take further action with it. If the Senate adjourns today, it will put a ceiling

on the bill and the bill will not have an opportunity to be reconsidered on its merits until the 1975 legislative session.

Sen. JACOBSON: Under Part II, Article 44 which has the veto section in it, is it right and proper that we can lay such a question on the table according to the Constitution?

CHAIR: The answer to the question is yes. The Senate is asked and required by the Constitution only to consider the Governor's Veto Message on any bills, including SB 2, and a vote to lay the issue on the table, leaving the Senate in session would be such consideration in my opinion and in the opinion of Legislative Counsel, Arthur Marx.

Sen. SANBORN: You gave in your answer to Senator Poulsen that we would recess. What happens if we recess and the House adjourns?

CHAIR: If the House, in its wisdom, adjourns, after the Senate has recessed, then the issue would be just as dead as if both Houses had adjourned.

Sen. FERDINANDO: Is it true that if you want to make a decision and resolve this, you would vote no?

CHAIR: If it is your desire that SB 2 not be finally acted on today but remain a vehicle for further action at some possible time in the future depending upon the manner in which the House and Senate close their business today, then you would vote yes when your name is called. If you wish any further consideration of SB 2 to close today and to be finalized today, then you would vote no.

Yeas: Sens. S. Smith, Bradley, Green, Spanos, Blaisdell, Trowbridge, Porter, McLaughlin, Claveau. R. Smith, Brown, Johnson, Preston and Nixon.

Nays: Sens. Lamontagne, Poulsen, Gardner, Jacobson, Ferdinando, Sanborn, Provost, Bossie, Downing and Foley.

Result: Yeas 14; Nays 10.

Motion Adopted.

#### SENATE RESOLUTIONS

Senator Lamontagne Moved adoption of Senate Resolution relative to Berlin High School hockey team.

Adopted.

Senator Foley moved adoption of Senate Resolution.

### SENATE RESOLUTION

Whereas, concerned citizens of New Hampshire have requested the adoption of a uniform telephone procedure for reporting police, fire and medical emergencies, and

Whereas, several states now have a 911 telephone line for reporting police, fire and medical emergencies, and

Whereas, the state of New Hampshire should determine whether an emergency telephone line is needed and whether such service could be implemented in this state, now therefore be it

Resolved by the Senate,

That the President of the Senate appoint an ad hoc committee to investigate the need for and the feasibility of establishing a uniform 911 telephone emergency number in this state and to report its findings to the President of the Senate not later than January 1, 1975.

Adopted.

Senator R. Smith recorded as neither participating in debate nor voting on the above Resolution under Rule 42.

RECESS to 2:00 p.m.

AFTER RECESS

LEAVE OF ABSENCE

Senator Downing was granted Leave of Absence due to illness.

HOUSE MESSAGE

HOUSE CONCURRENCE

SB 33, legalizing the authorization of bonds by the town of Durham.

RECESS

AFTER RECESS

## ENROLLED BILLS

SB 33, legalizing the authorizing of bonds by the town of Durham.

Senator Paul Provost  
For the Committee

Adopted.

## PERSONAL PRIVILEGE

Sen. JACOBSON: Last Saturday evening I listened to the legislative leadership's analysis of this Special Session. Because I found myself in disagreement at several points, I want to place on record the views of one rank and file member. In the first instance, the passage of SB 27 is a tragedy, not so much from what it will do—the instances where it will become effective or act as a deterrent are so rare—but from what many people believe it will do, that is reduce crime. Indeed, the net result may be that no real activity in circumscribing crime takes place, for often the symbolic gesture serves as a substitute for real action. Moreover, there are some unhappy incongruities wherein the Legislature passed a capital punishment bill on the grounds that it would “save one life” and then further gave State approval to hitchhiking on public highways creating danger for both motorists and pedestrians. Over the last decade, many more persons have died from hitchhiking than have suffered death from any of three categories listed in SB 27. Moreover, I predict that in the next decade the same condition will prevail as it did in the past.

An even more serious incongruity exists in the failure of the Legislature to pass SB 28, designed to place those seriously afflicted by alcoholism under a medical rehabilitation program. I see it the greatest of tragedies that this Legislature should pass a capital punishment bill and then fail to pass SB 28. Thousands of Americans, scores of New Hampshire residents will die even this year in alcohol-related incidents. Yet, this Legislature did not see fit to take a positive step to move to resolve this tragic social problem.

I recognize what I've just said is not politically popular. Yet, I am of the view that I was never elected to this Senate seat to be popular, but to act in a responsible manner and in the full public interest.

Again, I was deeply disappointed in the failure of political

reform, namely HB 19 and SB 1. On TV last Saturday, the Governor got the blame. The Governor did veto HB 19 and bears the responsibility for that. But the Governor has no majority in either Senate or House. Yet, a majority of the House voted to support the veto. An examination of the Roll Call vote reveals that representatives in no way tied to the Governor voted in the majority to uphold the veto. Again I am disturbed that no House Roll Call was taken on SB 1. If the Governor's people were the only opposition, the opponents to the Governor could have passed the bill over his opposition. Why then was there this soft burial of SB 1? I suggest that a careful investigation may well reveal what really happened. May I just say that of the people who contacted me the concern of persons planning to run for major office went far beyond the Governor's office.

Finally, as we pass over the threshold into the silly season of politics, I would hope that both politicians and the agents of the news media will take care to discriminate carefully between the facts and what may be politically expedient to garner votes.

### HOUSE MESSAGE

The House of Representatives has suspended the Joint Rules and passed a bill with the following title, in the passage of which it asks the concurrence of the Honorable Senate:

HB 40, providing for additional pay and overtime pay for nurses at New Hampshire hospital, Laconia state school and training center, the New Hampshire youth development center, the New Hampshire home for the elderly, and the New Hampshire veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers.

### SUSPENSION OF RULES

Senator Poulsen moved Joint Rule 10 be suspended to allow introduction of HB 40.

Adopted.

### INTRODUCTION OF HOUSE BILL

First and Second Reading and Referral

HB 40, providing for additional pay and overtime pay for

nurses at New Hampshire hospital, Laconia state school and training center, the New Hampshire youth development center, the New Hampshire home for the elderly, and the New Hampshire veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers. Rules Committee.

## RECESS

## AFTER RECESS

## SUSPENSION OF RULES

Senator Poulsen moved the Rules of the Senate be so far suspended as to dispense with notice of hearing, holding of hearing and to allow introduction of a Committee Report not previously advertised.

Adopted.

## COMMITTEE REPORT

HB 40,

providing for additional pay and overtime pay for nurses at New Hampshire hospital, Laconia state school and training center, the New Hampshire youth development center, the New Hampshire home for the elderly, and the New Hampshire veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers. Ought to Pass. Senator Poulsen for Rules.

Sen. POULSEN: This does include the game wardens which we were aware of and it is included—overtime pay for game wardens. We do recommend its acceptance at this time.

Sen. TROWBRIDGE: I also speak in favor of HB 40. HB 40 is a measure by which we are trying to solve the problem at the Hospital. In HB 11 we gave an extra \$260.00 a year to those nurses who were concerned with patient care. However, we also put in the provision that the nurses and aides who were working in the forensic unit would get \$25.00 a week hazardous pay duty. This has caused internal dissention at the Hospital and it doesn't recognize the further and more glaring need that really, in essence, the salaries of the nurses at the Hospital are inadequate to recruit people to fill the vacancies. There some 36 nursing vacancies at the Hospital unfilled and that means you have 5 nurses for every vacancy to fill around the clock and

around weekends. At this point, the nurses are being asked to fill in overtime at uncompetitive salaries with no shift differential and the situation is intolerable. I had resisted handling this matter by a straight \$15.00 a week increase for the nurses in that I thought it was more the proper procedure to have the Personnel Division able to handle these kinds of disparities through the administrative process. I still believe that to be true. However, with the crisis we have at the Hospital, there doesn't seem to be any way to insure this will happen other than by this legislation. Hence, HB 40 has in it a salary increase for the registered nurses, licensed practical nurses at the Hospital, Laconia State School, Youth Development Center, the Home for the Elderly and the Veterans' Home, all get \$15.00 a week pay differential. That is to make sure that in gearing up the Hospital pay we don't then have all the nurses at the Laconia State School quit there and come over to the Hospital or quit the Industrial School and come to the Hospital. You have to keep the nursing salary at a relatively similar level or you will rob Peter to pay Paul.

The second part of the bill creates overtime for nurses in certain institutions, in the same institutions and allows people who work more than 40 hours a week to be paid time and a half. That is not now available at the Hospital or any of these institutions. The appropriation is \$148,980.00 which is the best estimate they have of what the \$15.00 a week across the board, plus overtime will take. There is a provision that if it is not sufficient, the balances can be charged to the salary adjustment fund as are other types. As you know, if they have vacancies there are lapses of those monies for the vacancies and those can then be used in the interim to provide overtime payment.

The third part of the bill is an appropriation for conservation officers. We tried to do this in the last budget but it never seemed to work because we were scared of the Fish and Game fund and its deficit. Now that we have had HB 1 which radically changes the budget for the Fish and Game Department, it is projected that there is a \$43,000.00 projected surplus at the end of the biennium. Arthur Drake provided an amendment to this bill providing that \$25,000.00 of that \$43,000.00 be used to pay overtime for the conservation officers in the second year of the biennium only—not the first year—so that saved \$25,000.00.

One other thing that is, I think, being missed here of pri-

mary importance, at least in my mind, is that we have provided the Personnel Commission or Department with powers they don't have now. Right now, one of the big problems was that we would go to Roy Lang and say: "Why don't you reclassify the nurses and put them up two grades?" He says under the present statute if he goes out and sees a nurse who is still doing the work she was doing last year, there is no possibility of reclassification because the job has not changed. So, he has no authority, in his mind under that statute, to make changes in the classified schedule in order to recruit. On the back page of HB 40, you will see a new provision. In the present law there is a provision that if the Governor and Council and the Department need to go above Labor Grade 34—the highest grade in the system—in order to recruit or retain, they can with Governor and Council approval. What we are saying here is that, if there is a situation where there are substantial vacancies in any class of authorized positions, which vacancies require an increase in salaries for recruitment of qualified personnel, the Governor and Council, on the recommendation of the Personnel Commission, have the authority to increase the salaries of such classified positions. That would mean that, if having done this work for the nurses now, we find there is some other area of state government—let's say CDP operators or something where the salary positions are just too low to recruit—that, upon the recommendation of the Department Heads to the Personnel Commission, the Governor and Council can adjust, in order to recruit, and in order to fill the vacancies, and this has been needed for a long, long time. Had that provision been in the law last year, we probably would not have the situation we have at the Hospital that we have now. This is what I was striving for rather than doing patchwork all the time by people coming and complaining. There has got to be some machinery when the Legislature is not around to fix the salaries and get departments going and get state services to the patients because the patients are the ones who are the losers.

So, I am satisfied with the bill now because it has that broad provision at the end of it. If it were not for that, I would have opposed it, not because I am opposing the nurses in the slightest because I know they need the increase, but because there is no machinery in the government to handle these situations.

At this point, it is clear that the \$25,000.00 will come out



of the Fish and Game Fund. That is for sure. The \$148,900.00 will come from General Funds and I think this, if passed right now, will provide not only for the immediate problem at the Hospital for the nurses, but provide machinery for Ray Lang to then be able to handle similar situations when we are not in session.

I would strongly recommend passage of HB 40 with its amendments.

Sen. LAMONTAGNE: This morning I noticed there were some nurses who were a little bit disturbed with the language of the bill and I see now that some of the provisions they were talking about are not in HB 40. Has that been changed?

Sen. TROWBRIDGE: What happened was, I believe, the original draft of this bill did not include certain supervisory nurses and they said, why should we be left out? I know that has been taken care of so that I have not heard any objections from the nurses in that it handles them all across the board in the institutions that handle people who are under great need of care as opposed to maybe a public health nurse in giving shots to someone in the Rochester High School—that is a different breed of cat. But all the nurses are taken care of across the board. So, the objections to that, I think, have been eliminated.

Sen. LAMONTAGNE: It seems to me this is a complete new draft because I know some of the language I have seen that was in the proposed bill that they had is not in here so I assume this is a correction.

Sen. TROWBRIDGE: Yes. We had a meeting this morning in order to make as sure as possible the bill starting out in the House was all taken care of from all sides so that when it got here it would not require any amendments.

(Senator Porter in Chair)

Sen. BOSSIE: When was the last time all state employees were classified?

Sen. TROWBRIDGE: The Arthur D. Little Study was the last one done and it has never been implemented. Frankly, we had some good discussion about that today in that, like anything else, the Arthur D. Little Study came in and everybody nit picked it apart. They said, there is something wrong here;

there is something wrong there; and there is something else wrong here. But, in its basic premise, the Arthur D. Little Study would have given bigger flexibility within grades so that you could have handled something like this without this legislation and I think we should all commit ourselves to saying we have to do more with the Personnel System. It is too rigid. It does not take into consideration the varying needs of the various departments and we should work toward improving the Personnel System.

Sen. BOSSIE: Historically, the State Personnel Commission has had problems not only perhaps with the nurses but in almost every other division of the State in regard to salary classifications. Why did not under this bill they reclassify the nurses to a higher pay grade rather than just adding on a \$15.00 differential?

Sen. TROWBRIDGE: Good question. Just the one I was raising with the Committee. At this point, if classification means anything at all, Mr. Lang is saying technically that nurses at the Hospital are doing the same job they did 10 years ago. It is the same problem and they are classified that you need a registered nurse and you have so many years of education, etc. So, you can't really say that someone who was a nurse then is now a super nurse because she was doing super nurse duty 10 years ago. I asked the same question and I would have preferred that. But, it does then say that you are going to legislatively change classifications—to make job classifications—and I think that is dangerous. It is dangerous to have the Legislature saying you are a Clerk Typist II and you are a Clerk Typist III. We don't know if it is going to throw the whole thing off. So that the answer was to say: they are all in the same job but we will pay more for that job.

Sen. BOSSE: In the end, it is all piecemeal anyway, right?

Sen. TROWBRIDGE: The only thing that isn't piecemeal that we have done is the end of the section which gives the ability to raise classified salaries if you needed to recruit for substantial vacancies. That is the only general provision in this bill.

Sen. BOSSIE: On the news this morning and last evening, I understood this bill was coming in for the nurses and that the Governor said: "That will be fine as long as we have conserva-

tion officers." To your knowledge, how many other state employees or groups deserve something of this nature? They aren't getting what they should. We aren't realizing their needs.

Sen. TROWBRIDGE: That was what I was scared of in that I know—and I can't answer you precisely; I just know inherently and I think you do too—that the minute we pass this bill there will be people coming out of the woodwork saying, "I am in the same basic position here," and that is why the last section is provided—to give the Personnel Commission the authority to work within that scale. I agree entirely with you that it would be much better if the Personnel Commission could reclassify and bring up and go across the book. One of the problems we have had with doing that is all of a sudden you find that the price of doing that is enormous. Then we always back off and do nothing. At this point, we are doing patchwork. There is no question.

Sen. BOSSIE: I favor the bill and I favor the nurses and I favor the conservation officers also but, in the end, it is one crisis after another. What we are doing, we are reacting and in the next instance, somebody else will do it. They will have a slowdown. We are reacting. We will have to have a special session for that theoretically, is that not true? What we are doing is reacting rather than acting?

Sen. TROWBRIDGE: I agree entirely. I don't like the reacting and I made it quite clear to the Committee I don't like reacting. However, I have a responsibility to you and others to say that the patient in the Hospital should not be the loser because we haven't done what we consider to be a forward looking job. I think that is where you have to taper it off. There are people in need and we should provide for their need and look ahead.

Sen. JOHNSON: On the analysis it states "payment of holiday pay for conservation officers" and in section 4 it calls it "overtime." Would you kindly explain what that means.

Sen. TROWBRIDGE: What has happened is that conservation officers are being asked to work on holidays and days off and they have no provision for overtime for that time. So, most of the overtime they do is working on holidays or days off. They are supposed to be repaid by getting another day off—in other words, a Wednesday off—but it never works out that way. As I

was saying to Senator Poulsen, if you are in a tight financial bind on the Fish and Game Fund, it is cheaper in the end if you have fewer conservation officers and allow them to do overtime than it is to put more conservation officers on. So that, so long as the men are willing to work—and they seem to be—this is only a way of compensating them for then working on their holidays. So the holidays and the overtime are one and the same thing.

Sen. JOHNSON: Is this provision unique for the conservation officers or are there other people?

Sen. TROWBRIDGE: State Police have it and some other group. This is the way we have been doing it to build in overtime.

Sen. SANBORN: During the testimony we received on the pay raise bill, didn't Major Wheelock tell us that the nurses themselves had gone out and taken a survey of the hospitals in the area—the Concord Hospital, Elliot Hospital etc.—and found that nurses in these hospitals were receiving quite excessive pay more than the ones at the State Hospital?

Sen. TROWBRIDGE: Yes. It is not only that they are receiving more daily pay but there is no shift differential and there is no overtime. I think it is the overtime provision that is as crucial as the \$15.00 a week. There is no question that there has been a very loyal nursing group there who have stuck with the Hospital even despite this. I think they are finally saying: we have been patient but we can't go on. I think it is considered valid that what we are doing is bringing the pay scales up so that they are pretty near what they would get at one of the neighboring private hospitals.

Sen. SANBORN: Didn't Major Wheelock also in his testimony before on that bill testify that one of the reasons he couldn't fill the vacancies was because of the low pay?

Sen. TROWBRIDGE: Oh, yes, indeed. One of the reasons he can't fill the vacancies is low pay and, secondly, the vacancies are on these night shifts and overtime shifts and so we have to have some provision to deal with the off-hours as well. There is no question we have these. I guess it works up to over 100 real job vacancies there and, when you consider there are only about 80 nurses there now and you have 100 vacancies, you can see how understaffed the Hospital is.

Sen. SANBORN: Don't you feel that with this information that Major Wheelock and the nurses had provided to Personnel they should have been alerted then that there was something wrong with the salary scale for nurses in these institutions?

Sen. TROWBRIDGE: I understood that the Governor and other people had promised help to the nurses and had promised a two labor grade pay raise and everything else. This has been known a long time. When we were handling it in Senate Finance the problem was we were told that if we gave them \$260.00 more per year in addition to the \$520.00 general wage increase we would solve the problem. And all we can do is react to what we are told. And it turned out we did not solve the problem and, for that, I am slightly miffed in that I think we could have done a better job with this had we been told what we have been told now. But that is water over the dam and on we go.

Sen. SPANOS: I rise in support of HB 40, but I would like to say somewhat reluctantly—not because of the requests that are being made of us by the nurses of these various institutions, I understand the crisis that has arisen and it must be resolved—but I do object to the fact that the Governor indicated that, unless we added on to the bill the request of the conservation officers, he would: i.e., not support or he would veto the nurses' bill. I, for one, deplore this type of action, this type of mannerism by the Governor and I just don't like to deliberate with a gun at my head.

Sen. JACOBSON: I rise in support of HB 40, especially after listening to Major Wheelock the other evening in Franklin where he described some of the conditions and situations that exist at the Hospital. However, I would like to place on the record that in the last session the Committee of which I am the Chairman worked very hard on the A. D. Little Report and Senator Blaisdell and myself, along with two members from the House, sponsored HB 923 which had as its intention to correct a number of these inequities which have grown up precisely because of the very condition we are talking about right now. What distresses me is that every time we move in the direction of reform to do something to alleviate the inequities and to place the personnel employment house in order, we run into all kinds of road blocks, including road blocks from some of the people who supposedly should be supporting the em-

ployees. This distresses me a great deal. I would like to say that we did have a special commission which, if I am not mistaken, has now quit its job—is that correct, Senator Johnson, we have had a report saying they were done—

Sen. JOHNSON: They have not quit their job. That was an interim report and they are supposed to be meeting about the middle of May.

Sen. JACOBSON: Well, we have temporarily quit our job and we are supposed to begin again in the middle of May. Senator Johnson and I are the two Senate members on the commission. I am hopeful that we of that commission will knuckle down and come up with something for the '75 Legislature that will provide the necessary elasticity with regard to the employee question. Because, what is going to happen is if this continues, we are going to be flooded with Employee Group A coming in wanting this, Employee Group B wanting that and then A coming back and saying because B got this, now I want that. We will find ourselves in one horrible situation. I think this ought to be a signal for the commission to get down and come up—regardless of all the nit picking opposition—with a plan that is workable; that is fair and just and that will not subject us or anyone else to this kind of interplay which I think is not in the best interest of the State.

Sen. BOSSIE: The basic question before us—we have to enact a bill to do something which the State Personnel Commission says they cannot do or the State Personnel Director, Mr. Lang, says he cannot do by statute. Is this going to correct it for the future or is this just for a limited group?

Sen. JACOBSON: This is, of course, related to a limited group. Once you start giving Limited Group A something, then Limited Group B is going to want something too, and C, D, E, F all the way through Z and then we can double the letters.

Sen. BOSSIE: Just why was this bill introduced if, in fact, the Director did have the power to do it? Who is there to tell him: "Look, you do it, you have the right to do it?"

Sen. JACOBSON: According to what I read in the newspaper, Mr. Lang said he did not have the power. And, Senator Trowbridge said the nurses ought to go camp on his step because he has the power.

Sen. BOSSIE: May we defer to Senator Trowbridge.

Sen. TROWBRIDGE: Mr. Lang does have the power to reclassify and reevaluate jobs. What he is saying to us is that reclassification, as far as he is concerned, if he went out and looked at the nurses in their function right now he would have to conclude that there is no change in their job duties sufficient to reclassify them. So, although he has the power to reclassify—and that is what I was saying and I thought they should be reclassified—nevertheless, he is saying to me, professionally speaking and sort of a Personnel Department rule there is nothing to reclassify. There is no basis for reclassification. So that is the nut that we have come down to and we have decided: O.K., if that is true, we will take that as a given equation. Then the thing is to say: O.K., the nurses still have the same classification, however, we will pay them more. That is the way it has been resolved.

Sen. R. SMITH: Isn't there another factor involved here and that is competition in the market place, which is beyond the classification question and Section 4 would help alleviate that situation?

Sen. TROWBRIDGE: Precisely. He can say, here is a nurse and they have certain duties and all the rest and for that we pay Labor Scale No. 13. I don't know why it is so difficult. I sympathize with Senator Bossie because I am having difficulty with what is in the bill. But, anyhow, if it is difficult, one of the difficulties is that he does not have any power to go above that pay scale in order to recruit. Section 4 of the bill gives him that power. That is our attempt to make this broader.

Sen. BOSSIE: In line with what you have just stated, it really is a question as to the need for specific jobs rather than a patent discrimination within a job classification. Just because there probably are too many people applying for these jobs, it is unsatisfactorily classified. There's just no remedy for it, except if there are not enough of these jobs for applicants to seek these jobs.

Sen. TROWBRIDGE: That is what we mean.

Sen. GARDNER: Right now I don't care who is responsible for what. I think we need this bill and I am all for it. We have needed it a great many years and I think the committee that is set up will work hard during the interim to bring something in to correct all other inequities.

Sen. JACOBSON: Senator Trowbridge, to further clarify the last response you gave to Senator Bossie—is it not also true that the competitive inequity question can very well relate to other jobs in other categories as well, which, again, creates the disjointed effect in the classified employee's relationship one to another?

Sen. TROWBRIDGE: As you will remember, in the Arthur D. Little Report, there are some 70 or 80 job classifications for which there is only one person, there is only one job—and so in those situations, you have a vacancy, you can't say it is uncompetitive and you can't get someone to fill it because 9 times out of 10 you can get someone very quickly. So, it is only in these broad classifications like nurses or attendants or aides or grounds keepers where you have substantial vacancies and a number of people involved that you have the real problem. Section 4 relates to saying if there are a lot of job vacancies—substantial vacancies in a job classification—then at that point you know you are having trouble recruiting, and that would be true, let's say, in the Water Resources Department right now. If there were a broad category of sanitary engineers or something for which they could not hire and they had vacancies, under that provision, they could go out and raise the salary and get someone to fill the job.

Sen. NIXON: I have, to the best of my ability while trying to get my own thoughts together, been listening carefully to the views of my fellow Senators on this bill. I find it very interesting that almost to a woman or to a man, as the occasion might be, all have said they are going to vote for the passage of HB 40 and then proceeded to give reasons why they should not. And that is the dilemma that is presented by legislation of this nature coming to us at this time under the circumstances that HB 40 does. I will state categorically that I will support and urge you all to support HB 40 and I will do my best to give you some reasons why we all should support it and the reasons why we should enact it into law. I am glad there is a representative body of the nurses here because I have been proud of the Senate throughout the Session but I am particularly proud of the Senate when it responds to an issue such as this in the manner in which you all have done so far and, in my judgment, will continue to do.

I have some familiarity with the State Hospital, as some of



you do, by reason of the profession I am honored to be a member of and by reason of the fact, unfortunately, that I have had friends cared for there from time to time and, fortunately, I have had friends and do have friends who work there under the conditions which are miserable, which are so demanding of human compassion beyond the call of any reasonable obligation to civic responsibility that, frankly, I just wonder how they carry on under the circumstances and, in fact, we must all share the blame for those circumstances continuing to the present time. I suggested Monday morning early—as I recall it was about 7 o'clock—to Senator Trowbridge that the Senate, in view of the apparent impasse as between the Executive Department represented by Director Roy Lang and the Legislative Department represented by the views of the Legislature who felt it was not a statutory measure, that the Senate should, nonetheless, take the bull by the horns and initiate a bill which would alleviate the nurses' problem—and when I say the nurses' problem, I mean the patients' problems because, after all, our primary concern is for the care they receive and they cannot receive anywhere near the care they should have when they are served by dedicated but still legitimately resentful nurses. And, it was his judgment at that time—and his judgment is a judgment that we all respect and we have all so declared from time to time on other issues—and I suggest that it probably still is his judgment that no legislation was needed to rectify this problem and that it could well be rectified by the Director of Personnel who is in the Executive Department not the Legislative Department. But, I said, "I don't care whether he is right"—meaning the Director of Personnel—"in refusing to do the salary classification category upgrading that is necessary or whether you are right in terms of the fact that this is his function and not the Legislature's. What I care about is the people who are caught in the crossfire of this interchange of responsibility"—and that is the nurses and that is the patients. But his judgment prevailed and no bill was introduced or attempted to be introduced from the Senate side. And it is unfortunate because now the nurses are caught in an additional power play—the power play that unless the conservation officers were included in terms of their overtime pay then the nurses would not get what everybody agrees should be a reasonable increase in their compensation, having in mind the hazards and the duties they must be called upon to perform. It is the same situation, if

you will, whereby the law enforcement officers who gathered here so much in support of HB 35 as amended by the Senate providing a 20 year retirement were caught in the web that unless they supported the death penalty they might not get from the Governor's office approval of the 20 year retirement plan. I have been proud of the Senate in the other areas in which it has dealt with State employees in this session—SB 18, which put together for the first time in our State's history an equitable means of increasing on a fair and equitable basis the retirement cost of living program for all of our state employees, policemen, firemen and teachers; HB 11, the pay raise bill; HB 35, the 20 year retirement and, of course, the mileage increase. In all of these issues, as is the case with HB 40 today, the Senate in its wisdom and in your wisdom dealt and spoke in terms of compassion, in terms of the dignity of human life and dedication to the service of the people who are involved. And the same consideration should motivate us to take the nurses and, if you will, take the conservation officers out of the cobweb of political footballism to which they have been subjected at this time and support HB 40, pass it, commend the Governor, if you will, for his willingness to sign the bill and let us get on with the problems of New Hampshire in an affirmative way. I hope that the Senate will vote unanimously on record and in favor of HB 40.

Sen. BLAISDELL: I rise in support of HB 40. Having failed to influence the passage of SB 2 this morning—tax relief for the elderly—I now ask you to support this pay raise. The least we can do is to pay these nurses a fair wage because they will have to take care of these elderly people.

Sen. BOSSIE moved the previous question.

Adopted.

### ROLL CALL

Roll Call Requested by Senator Nixon. Seconded by Senator Blaisdell.

Yeas: Sens. Lamontagne, Poulsen, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Nixon, Blaisdell, Trowbridge, McLaughlin, Claveau, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Johnson, Preston, Foley and Porter.

Result: Yeas 23; Nays 0.

Adopted. Ordered to Third Reading.

## SUSPENSION OF RULES

Senator Nixon moved the Rules of the Senate be so far suspended as to dispense with referral to the Senate Finance Committee and that HB 40 be placed on Third Reading and Final Passage at this time.

Adopted.

## Third Reading and Final Passage

HB 40, providing for additional pay and overtime pay for nurses at New Hampshire hospital, Laconia state school and training center, the New Hampshire youth development center, the New Hampshire home for the elderly, and the New Hampshire veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers.

Adopted.

## RECONSIDERATION

Senator Blaisdell moved Reconsideration of HB 40.  
Motion Lost.

(Senate President in Chair)

## ANNOUNCEMENT

Sen. POULSEN: I have heard within the last half hour by telephone from Willard Gowan who is flat on his back in the Veterans Hospital at White River and he does two things. He first sends his appreciation of the donations we took up last week and sent to him and his family. And, secondly, he appreciated working with us the last two years.

## PARLIAMENTARY INQUIRY

Sen. LAMONTAGNE: Is there any chance that SB 2 may be taken off the table today?

CHAIR: SB 2 can be taken off the table any time a majority of the Senate desires to do so.

RECESS TO 5:00 p.m.

AFTER RECESS

## ENROLLED BILLS

HB 40, providing for additional pay and overtime pay for nurses at New Hampshire hospital, Laconia state school and training center, the New Hampshire youth development center, the New Hampshire home for the elderly, and the New Hampshire veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers; and providing for increases in classified salaries for recruitment.

Senator Paul Provost  
For the Committee

Adopted.

## TAKEN FROM THE TABLE

Senator Porter moved SB 2 be taken from the table.

VOICE VOTE: Adopted Unanimously.

SB 2, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons sixty-five years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

Question: Shall SB 2 be passed, notwithstanding the Governor's Veto.

Sen. LAMONTAGNE: I rise in support of the Governor's veto and I believe this afternoon we had a good demonstration in the House and I think that the House really has given us a message and I hope we can take it that they certainly are not going to take any other action and I think the majority of those I talked with in the House will support the Governor's veto. And I hope it will be done here to stop all these problems that has been here that we have been spending a whole day, which I consider to be very wasteful.

Sen. SPANOS: I am going to vote to sustain the Governor's veto on SB 2 with the prospect that a bill will be introduced in this Body right after the vote which will call for SB 2 with funding of \$3 million. The Homestead measure will not be a part of it and, consequently, I think all the arguments that

were raised by the opponents of SB 2 will have been met; i.e., that there is not proper funding and that they have some reservations about the Homestead measure. So, I want the record to show that I am supporting the sustaining of the Governor's veto of SB 2 only because there will be a bill introduced which reintroduces SB 2 with proper funding.

Sen. LAMONTAGNE: What tells us that there is going to be a bill introduced? What kind of a bill?

Sen. SPANOS: I am informing you at this stage that there is a bill that has been prepared which will be attempted to be introduced into the Senate, which is SB 2 with the exception that it provides for \$3 million. Now it is SB 34 and you will have the opportunity to vote to allow it in this chamber or not. I hope that you will give it the opportunity to be allowed as we have done to you so many times.

Sen. LAMONTAGNE: What does this have to do with the Governor's veto?

Sen. SPANOS: It has nothing to do with the Governor's veto except for one thing. It is a bill which will be designed to correct the problems which he sees in SB 2.

Sen. TROWBRIDGE: I too am going to follow Senator Spanos' example but for a slightly different reason—not only the prospect of SB 34 which would deal with the elderly exemption on its own, but, more importantly, that somehow we get away from the cross current here of the Homestead Exemption and the elderly exemption which I think has done more to confuse this issue than anything possible. I think it is important that the Homestead Exemption issue be done by itself. The House has already tried to put in a separate bill. It failed on the Homestead Exemption and I would just like to say I can perfectly well sustain the veto at this point knowing that I can vote for the elderly exemption next.

Sen. BRADLEY: I still intend to vote to override the Governor's veto because, as I see it, this is the only opportunity I have to go on record in this session, or at least at this point, as being in favor of the modification and modified repeal of the Homestead Exemption. I do agree with Senator Trowbridge that the question should have been divided originally and I am happy that it is now in effect being divided, but I still feel, de-

spite the fact I am now going to have a chance to vote on the elderly exemption, I still see this as the only way I can show that I am in favor of the modified repeal of the Homestead Exemption.

Sen. FOLEY: This morning I had decided to vote to sustain the veto, mostly because 71% of the people in Portsmouth had voted for the Homestead Exemption and I felt this was the only way to show them I realized how they voted and I was representing them up here. And I shall vote to sustain the veto now. However, with this new bill that comes in, it gives us an opportunity not only to have Homestead Exemptions still on the record but, in addition, to vote for some help for other elderly and fully fund it and, for this reason, I am still going to vote to sustain the veto and, in addition, will vote for SB 34.

Sen. BLAISDELL: I will vote to sustain the Governor's veto of SB 2 with the clear understanding that SB 34 will be introduced and that I will have the opportunity of voting for tax relief for the elderly. Only this way will I vote to sustain this veto.

Senator Bossie Moved the previous question.

Adopted.

Question: Shall SB 2 be passed, notwithstanding the Governor's Veto.

#### ROLL CALL

Yeas: Sens. S. Smith, Bradley, Jacobson, Porter, Claveau, Johnson and Nixon.

Nays: Sens. Lamontagne, Poulsen, Gardner, Green, Spanos, Blaisdell, Trowbridge, McLaughlin, R. Smith, Ferdinando, Sanborn, Provost, Brown, Bossie, Preston and Foley.

Results: Yeas 7; Nays 16.

Veto Sustained.

#### SUSPENSION OF RULES

Senator Trowbridge moved that Joint Rule 10 be so far suspended as to permit the introduction of SB 34.

#### PARLIAMENTARY INQUIRY

Sen. POULSEN: If one were against the introduction of

this bill would it not be so that only one-third of the Senate has to vote against the suspension of the rules to keep this bill from getting on the floor?

CHAIR: Yes. This bill is being treated in the same manner as SB 33 which was passed today and HB 40 which was passed today. First is required a two-thirds vote to suspend Joint Rule 10 to permit the introduction of the bill and consideration by the Rules Committee. If the Rules Committee, in its wisdom, recommends affirmative action on the bill, then only a majority vote is thereafter required for its passage. If the Rules Committee, in its wisdom rejects the bill and refuses to recommend its passage, then a two-thirds vote is required to consider the bill under Joint Rule 12.

Sen. PRESTON: Is it parliamentarily proper to introduce a bill the body of which, in good part at least, has been vetoed by the Governor and just sustained by this Body?

CHAIR: The only bill which cannot be introduced after a negative action are bills which are indefinitely postponed by either one body or the other, and even those with a two-thirds vote.

The answer to your question is yes.

Sen. TROWBRIDGE: SB 34 is an attempt, as Senator Spanos outlined, to isolate for the Senate the possibility of granting exemptions to the elderly without having it confused with two other issues; namely the Homestead Exemption or the matter of funding. In SB 34, we take the best of the Committee of Conference Report on SB 2, which was to deal only with persons 70 years or older. There is no mention in the bill of going down to age 65. The same exemptions are granted; namely \$5,000.00 for someone up to 75 years of age; \$10,000.00 for 75 to 80; and \$20,000.00 exemption for over 80. In the bill there is the provision that, if a town has adopted the Homestead Exemption, the elderly shall have the choice of which exemption he or she may want to choose. The appropriation is \$3,193,000.00 which is the estimate given to me by the Department of Revenue which was the total cost of exemptions including the expansion of the exemptions for not only this bill but the bill that we passed in 1970 granting the original exemptions for the elderly. So, I think at this point the cities and towns could hardly complain that we are not funding what they

are now carrying—the \$2,157,000.00—plus the extra \$1 million that comes from the expanded exemptions. We think that this will mean that we can vote on the clear issue of do you want to help the elderly; do you believe and want to put the money where your mouth is and get it out from the pull and haul of all the other considerations? On that basis, I hope that you will let this get on the floor and then we can vote it up or down in whatever fashion you may choose.

Sen. JACOBSON: Could you indicate for us with your expertise what will be your best estimate with regard to any funds remaining at the end of the fiscal year, vis-a-vis, lapses or otherwise.

Sen. TROWBRIDGE: This bill pertains only to fiscal year '75—starting July 1 of this year. For that year we still have projected about \$5 million of lapses after all the things that we have passed. These are expenditures that were based on the \$4½ million each year from the lapsed funds which I gave in my earlier presentation. We also have some indications that our worries—remember I took off \$1 million flat for worry over declining revenue. It looks now with the gasoline shortage not being as bad as it was when I gave that message that you could anticipate higher liquor sales again so you would come up to the original revenue estimate. So, although there is no question that taking \$3 million is a large hunk, I do not think—nor would I be proposing this if there were not at least a theoretical surplus available from which to take this \$3 million.

Sen. LAMONTAGNE: Is there any part of this bill here that the House killed this afternoon?

Sen. TROWBRIDGE: No. The House was trying to repeal the Homestead Exemption. It failed. The only way it relates to the Homestead Exemption is assuming the Homestead Exemption is adopted by let's say Portsmouth or your town, that a person who is elderly has the option of choosing either the exemption he gets under SB 34 or the exemption under the Homestead Exemption because there is a great possibility, as Senator Downing brought out, that under the Homestead Exemption an elderly person would fare worse than they do under the regular elderly exemption so we have left that choice in. That is the only reference to the Homestead Exemption in this bill at all.



Sen. LAMONTAGNE: Is there any part of this bill here now pending in the courts for decision?

Sen. TROWBRIDGE: No. This would not be subject to that in the slightest. The Homestead Exemption which is now being left where it was at the beginning of the session may be challenged and probably will be challenged, but that has nothing to do with SB 34, nothing whatsoever.

Sen. PRESTON: To reiterate my question of this morning—what if no legislative action is taken to fund this next year? And, if action is taken, you estimate the amount of monies will be upwards of \$6 million for the next biennium?

Sen. TROWBRIDGE: Right.

Sen. PRESTON: Where are these funds to come from? Are there sufficient funds available to pay for this?

Sen. TROWBRIDGE: In this biennium, which is the only biennium with which we can deal in this session, I think there are sufficient funds to finance the next year. As you know, you probably have seen the Foundation Aid Statute that after you go one biennium under a bill, the budget bill itself picks up the funding for these on-going programs. And that would have to be a priority use of the money in the next biennium to keep these fundings going. There is nothing that you and I can do in this biennium in this session to affect that up or down. But there is no question the answer is, you would have to continue the funding.

Sen. PRESTON: Then, if in the event these funds were not available within the State Treasury, would we not then be placing this entire burden upon the towns?

Sen. TROWBRIDGE: Yes, you would. The only thing is then, if you were not going to fund it, you might not grant the exemption. You would have that choice. You will have to make a choice again next year. There is no question about that.

Sen. JACOBSON: You mentioned the Foundation Aid. As I understand it at the present time, it has been funded at 12% of its potential. Are you being prophetic in this matter?

Sen. TROWBRIDGE: I am trying not to be. But I am saying that is how it is done. You have an on-going funding in each budget bill.

Sen. SANBORN: I believe Representative Drake of Appropriations made a statement in the last week or so that considering the amounts of money that we have spent in the regular session and in this special session that at another session of the Legislature in 1975 it would take, I think he said, \$40 million of new money to keep things at the present level. How much more would this increase it?

Sen. TROWBRIDGE: Well, as I said to Senator Preston, if you would carry this forward for another two years, it would be \$6 million more. The point of that is we do not know. Every session I have been here, we have come to the end of the biennium projecting a great problem in the next biennium. We get back in the next biennium and we seem to muddle through. I have heard this four times in a row now—revenue sharing from the Federal Government, vacation increase. You may have *Jai Alai* for all I know. People will deal with that issue in the next session and you will have to cut your budget to it. It is a matter of a priority item as to whether the Senate and the Legislature will support attempts to give property tax relief to the elderly. That is the issue and that is the price tag.

Sen. JACOBSON: This \$3,193,000.00—is that going to be returned to the towns in calendar year 1974 or calendar year 1975?

Sen. TROWBRIDGE: After the tax bills go out and they know how much they have actually exempted, they then apply to the fund—the \$3,193,000.00—and it is paid as soon as it is established as to all of the needs as to whether the \$3,193,000.00 will cover all the needs so it will be paid probably in January of 1975.

Sen. JACOBSON: Based on the cost of 1974?

Sen. TROWBRIDGE: Exactly.

Sen. GREEN: Here is an example, I think, of what I referred to this morning earlier for us to cooperatively work with the members of the Executive branch and the Governor. He asked for a sustaining of the veto. He stated his grounds and one of the main things was that there was concern about the funding, although there was some disagreement among many of us about the funding at the \$1 million level. You have here a bill which has only one answer to it. It is only one kind of

bill. It is a question of elderly exemptions. It has in it the \$3 million attached for an appropriation. It seems to me that the objections of the Governor reasonably have been met. He has said publicly that he supports tax exemptions for the elderly *but*. Now, I think we have removed the buts. I hope we have. I think it is a reasonable thing to do at this point in time. I, too, at the beginning was concerned about where the money was going to come from. We have looked at the projected revenues. We have looked at the amount of money that is available from lapses. I too believe that in 1975 that is not the issue in this bill as far as that particular year—I am talking about '74-75 fiscal year—not '75 and beyond fiscal year. So it would seem to me that for all of us in the Senate who support the concept of tax relief for the elderly with the full knowledge that there is enough funding in this bill to accomplish what we say we would like to do, it would seem that we would certainly move on this with haste and approve it and get it to the point where the House can deal with it and I think in their wisdom that they will see it for what it really is—to remove all the issues around that were going into SB 2 that confused everybody and everybody got all mixed up as to what was really happening—and really put the one issue in their hands and say: here is a tax relief bill for the elderly funded at a level which both the Legislative branch and the Executive branch can live with. I ask for your support and approval.

(Senator Porter in Chair)

Sen. SPANOS: I rise in support of suspension of the rules. Sometime this afternoon, we suspended the Rules and took into consideration the plight and concerns and the needs of the nurses of these various institutions, and justifiably so. They were in the galleries. They were watching each and every one of your moves. There aren't any of these people we are representing up there. Many of them can't be here. What I am trying to say is that I just hope that you will give the same consideration to the elderly as you did to the demands and the concerns of the nurses who were here in full force this afternoon.

Sen. NIXON: I rise in support of the motion as offered by Senator Trowbridge to suspend Joint Rule 10 so as to allow the introduction and referral to the Senate Rules Committee for its consideration of the measure. I do so because we have in this bill the opportunity for this Senate to end up this Session ac-

complishing in an effective way and in a way that has been stated publicly many, many times which is acceptable to the Executive branch of recording its support for and belief in the premise that the elderly home owners and the elderly renters of New Hampshire are being required to pay too high a share of the aggregate tax burden as opposed to some of the rest of us. There are no complicated factors in respect to this bill. There are no side issues, if you will, upon which the bill can be hung on tenterhooks. The Governor has many times proclaimed that he would support tax relief for the elderly if it had a \$2 million appropriation. This one has a \$3 million something appropriation. The Governor is recorded publicly by the Chairman of his Committee on the Elderly, the distinguished Representative Maurice Read, who was satisfied in the first instance anyhow with the Senate's initial action on SB 2 and the House's and the Conference Committee Report. I have discussed the principles of SB 34 with Representative Read just a few minutes ago. He personally supports the concept as set forth in this bill and he has indicated that he will do what he can to see that if we act favorably on it, the House does also. And he is a man of his word. Here is an opportunity, ladies and gentlemen, which we have not had ever on behalf of our elderly home owners and renters and citizens of all kinds and shapes and styles and incomes in New Hampshire to say that here in New Hampshire we do care, not only about the problems of the nurses and the conservation officers and the retired state employees and teachers, etc., we care about the citizens of all makes and kinds who have given their lives; who have paid taxes; who have supported us and, as someone said earlier today, built the state we are enjoying the benefits of so that they can, in their declining years, once more at least have the peace of mind and security of remaining in their own homes and the funds are here to do it. I would hope that you would vote in support of the motion to suspend, unanimously if you will, and I would hope you would, thereafter, act affirmatively upon SB 34 and send it into the House where I would appreciate it very much if the House members present here today will see the merit of this measure and I hope it will continue to have the Governor's endorsement with the assistance of Representative Read and that we can go home from the 1973-74 sessions of the New Hampshire Legislature knowing that we ended up on a high note—a note of compassion—a note that has heart in it and, at the same time, does

not penalize and cannot be claimed to penalize any community, any taxpayer in the State of New Hampshire because we would be doing the right thing. As you think about this measure as it is being discussed here this evening, I ask you if you do not agree that the bill represents the essence of doing the right thing, not only for the elderly affected but for the future of New Hampshire and all that you believe about it.

Sen. FERDINANDO: I am just wondering if I have the right bill here. Is there any provision in here for the renters?

Sen. NIXON: The provision in here for the renters is the provision that in no way by reason of any exemptions granted to an elderly home owner, of which there are approximately 25,000 in New Hampshire, will the renters be penalized by even an alleged or supposed or potential increase in the taxes that the landlord must pay which he would then be, as some say, in a position to pass along to the renters. The renters are helped because they have the knowledge of knowing that they cannot be victimized by our concern for the home owners throughout New Hampshire.

Sen. FERDINANDO: Is it not so that the home owner is getting the break under this particular bill but there is no provision to help the renter—in other words, half the residents who are over 65 who are renting in the State have no relief as far as their financial position is concerned?

Sen. NIXON: This bill doesn't help the home owners and taxpayers unless they attain age 70. In the second place, I think your other point is this—why doesn't this bill give some kind of a rebate to renters in addition to home owners? The reason and the answer is that there has never been a bill that has ever been considered while I have had the honor of being in the House and in the Senate which was perfect, which did everything that we hoped it would do. And, if there were some way that the Lord could give us the wisdom to do what you ask and if you could figure out a way for us and come in affirmatively with the solution, there are 23 other Senators here who would vote for it just like that. All we can do is the best we can with what we have. We have in SB 34 the vehicle of doing something affirmatively for elderly home owners in New Hampshire without penalizing anybody else and placing on record our desire that their ability to keep their homes, their lifelong homes, is a priority with the New Hampshire Senate.

Sen. TROWBRIDGE: Isn't it true that the \$2,157,000.00 which is now being borne by the taxpayers for elderly exemptions will be relieved and, therefore, the people who rent and are presumably paying that \$2,000,000.00 are going to be relieved in that fashion?

Sen. NIXON: Exactly. What he is talking about, Senator Ferdinando, is this in further answer to your question. The appropriation contained in this measure does not only fund the additional exemption situation provided for therein but funds the already existing Homeowners Law fully so that there will be additional funds going back to cities and towns for the payment of local taxes and provision of local services which will be a benefit to those communities which will allow landlords, if in their hearts they desire so to do, to reduce the rents by reason of the lower taxes, hopefully, that will result unless the cities and towns appropriate additional monies for other purposes in their present level. So the renters do get a direct benefit which I overlooked earlier.

Sen. LAMONTAGNE: I just want to save time for this Senate. I wonder whether the sponsors of this bill would accept an amendment to this bill that is placing a tax freeze—would you accept that, assuming you are a sponsor.

Sen. NIXON: I am one of many. The answer to your question so far as I personally are concerned is, yes, because you may recall that I was the sponsor with a couple of other gentlemen of SB 25 which would have frozen residential real estate taxes at age 65, which the Senate Ways & Means Committee, in its wisdom, recommended was not an expedient bill and the Senate agreed several months ago. But, I do not think at this late stage of the game that the clear cut well defined issues and relief provided by SB 34 in the wisdom of this Senate should be perhaps confused by the addition of any amendments outside of the vehicle which we affirmatively acted upon in the 1973 regular session and which we affirmatively acted upon in the 1974 special session. All this bill does is provide an opportunity for you and all the rest of us to once again do what we did before but do it better and in the minds of some on a basis which makes it fairer to all the other taxpayers and to the communities in which elderly home owners reside.

Sen. LAMONTAGNE: You don't feel you would want to accept my amendment to put a property tax freeze on it?

Sen. NIXON: The difficulty with your tax freeze suggestion, as was the difficulty with my bill which would have done the same thing, is that it does in a sense adjudicate as between those who need the relief and those who have an income sufficient to pay the existing taxes anyhow. The further difficulty is suggested in your own question that there isn't time left and we are in a problem of time at this point and I think any amendment at this particular time, no matter how meritorious—and I don't disagree with the principles and the goals—would confuse and render more difficult the opportunity to provide the meaningful relief that SB 34 encompasses for these needy people.

Sen. GARDNER: I just wondered if the persons who sponsored this has been courteous enough to go in to the Governor and discuss it with him.

Sen. NIXON: Yes. And I would thank Senator Poulsen for acquainting the Governor with the principles of SB 34. I cannot tell you, frankly, what the Governor's position on this particular measure is at this time, but the courtesy was extended and I again appreciate Senator Poulsen's willingness to undertake that task.

Sen. JOHNSON: I am one of the sponsors of this bill. I rise in support of the motion of Senator Trowbridge to suspend the rules. I want to comment that I am tickled to death to see that we are finally sending some money back to the communities to do a little proper funding. It has gone from zero up to \$3,193,000.00 and I think that is terrific.

Sen. JACOBSON: I rise in support of the motion. I do, however, think that the manner in which we are doing it does, in fact, create a problem because it does not become related to all the other major funding proposals that have already gone by, so there is no genuine opportunity to evaluate the total fiscal picture. Finally, I would like to say that all of this maneuvering that has gone on today, one way or another, is probably the clearest testimony that we need annual sessions that I have ever seen.

Sen. BRADLEY: I rise in support of the motion. I want to briefly say that I am very happy this bill has come in this way because I think it does sharpen up the issues and I think, if we are all honest with ourselves and look at this you have to recog-

nize that there are only three possible positions you can have on the issue of aid to the elderly on real estate tax relief. You can be against real estate tax relief to the elderly or you can be for relief without full funding or you can be for relief with full funding. There is no other position you can have logically. We had a bill that was argued we did not have full funding. But, I say this: if you are in favor of tax relief for the elderly, either with or without full funding, you have to vote for Senator Trowbridge's motion. Then, if you are in favor of full funding, you would vote in favor of the bill. If you are not in favor of full funding, I suppose you could vote to take out some of the funding. But you have to vote for Senator Trowbridge's motion if you are in favor of either of those two alternatives. If you vote against it, there is no way you can say you are for property tax relief for the elderly. There is just no way you can do it.

Sen. PRESTON: You said you can be for relief with funding; you can be for relief without funding—what if your position if you are for relief if full funding is available for the next two years?

Sen. BRADLEY: You propose one of those impossible kind of issues that you can't grapple with. All we can vote on today is this bill and all there is for us to deal with today is: are we in favor of tax relief for the elderly and are we for it with or without funding? Those are the only alternatives. You cannot vote today logically, reasonably, and say I am for tax relief for the elderly if it is funded for all time in the future. That is not an alternative for us here today. You cannot take that position logically using geometric or euclidean logic. It simply is not a position that you can logically take here today. You cannot vote to fund something next year and that is an issue that will have to be dealt with then.

(Senate President in Chair)

Sen. BOSSIE: There seems to be a great doubt as to whether there is available the amounts necessary to fund this. Apparently this morning during debate on SB 2, Senator Trowbridge and others claimed that \$1 million was sufficient. Subsequently the argument was made that \$2 million was needed and, lo and behold, now we have a bill with \$3.1 million. Once and for all, I would like to know if this money is there; is it speculative; where the heck are we going to get it?



Sen. TROWBRIDGE: One must remember two things. One is that in all the calculations we have made on the surplus available at the end of the biennium we had in the \$1 million that was carried in SB 2. What we are talking here now is an extension of \$2,193,000.00, not \$3 million because we made those calculations. Secondly, the reason we are doing it is because of the confusion of people saying the elderly exemption its expansion by virtue of these bills we are considering now only expands the cost \$1 million but, as of 1972 and 1973, the cities and towns were picking up \$2,157,000.00 In order to get over that argument that somehow we are adding on and adding on and not fully funding elderly exemptions, we are now proposing to say the entire cost of the elderly exemption as started in 1970 and as amended, hopefully in 1974, is \$3,193,000.00 In order to meet the objections of the cities and towns, what cities and towns can object now if the \$2 million which is being unfunded at the present time are now picked up? Then your question would be: O.K., where will you get the money? As I said, in my calculations there is still that \$6,900,000.00 left unexpended at the end of the biennium and in that I had \$1 million for loss of revenue. If we don't have that loss of revenue, you go up to \$7,900,000.00 left over. The increased spending that we have had to do, let's say with the nurses and everything else since those calculations have not been great—maybe \$300,000.00. So, frankly, I don't see that we are skimming so low because the \$7,900,000.00, if we use that figure, included the \$1 million that we already had set aside in SB 2. So you go from \$7,900,000.00 down to \$5,000,000.00 and some level like that of unexpended funds at the end of the biennium. As I said to you previously, if I thought this was going to absolutely run us right down to the end, I would have to talk that way. But, since we have not done that, in my opinion, then I think the point should be taken up—are you going to let that money lapse go the General Fund in 1975 or are you going to use it to fund SB 34? That is the question.

Adopted.

## INTRODUCTION OF SENATE BILL

### First and Second Reading and Referral

SB 34, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons

seventy years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and providing for an election between the homeowners' exemption and the elderly exemption. (Sen. Nixon of Dist. 9; Sen. Smith of Dist. 3; Sen. Bradley of Dist. 5; Sen. Spanos of Dist. 8; Sen. Blaisdell of Dist. 10; Sen. Trowbridge of Dist. 11; Sen. Porter of Dist. 12; Sen. Johnson of Dist. 21; Sen. Downing of Dist. 22 — to Rules.)

## RECESS

## AFTER RECESS

## SUSPENSION OF RULES

Sen. Poulsen moved the Rules of the Senate be so far suspended as to dispense with notice of hearing, holding of hearing and to allow introduction of a Committee Report not previously advertised on SB 34.

Adopted.

## COMMITTEE REPORT

### SB 34

to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons seventy years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and providing for an election between the homeowners' exemption and the elderly exemption. Ought to pass. Senator Poulsen for Rules.

Senator Ferdinando moved SB 34 be sent to the Ways & Means Committee for further study.

Sen. FERDINANDO: I do so, Mr. President, because it seems that what is happening here is that all of a sudden we have an extra \$3 million to spend which we did not seem to have 24 hours ago or 48 hours ago or last week or the week before. It seems of some concern if we are going to do this I would like to see it done right. I would like to make sure that the money is there and that the cities and towns are not going to have to subsidize this program. I think it needs more detail and I am sure we are less than 8 months away from the next session and I think it would be a wise move if we are going to do it to

do it right. And I think we can do it right by sending it to a study committee.

Sen. GREEN: I would like to rise in opposition to the motion for two reasons. I don't think anything will be accomplished in terms of this going to a study committee. It has been studied now since I have been here in one form or another. I also don't think it involves a suddenly found \$3 million. Again, I don't know how much clearer we can make it in terms of what Senator Trowbridge has said. A decision was made to fund SB 2 which is an addition of the present law and we felt \$1 million would take care of the addition to that law. What we have now decided under this bill is we are saying: O.K., the cities and towns were upset because they weren't getting what they considered was enough money because they were already picking up the exemption for the existing law and \$3 million will cover the existing law and what is going to come on as a result of the new eligibility. So, we are not all of a sudden finding \$3 million and, again, I say we have the issue before us. It has been discussed. It has been studied. We have had hearings on it. We know what the issue is. Let's get the issue and vote on it today and make it clear where the Senate stands.

Sen. POULSEN: I rise in support of the Motion of Senator Ferdinando. Over the last few days I had many calls from constituents. I would say every one was an older person and the consensus of opinion was they wanted it studied. They wanted the tax relief but they did not want it haphazard. They wanted it thought out and worked out properly and then presented in the regular session. That was, without question, what they all said to me one way or another.

Sen. BLAISDELL: I rise in opposition to the pending motion of Senator Ferdinando. This morning you heard me mention the Ida Flanagans of my town in my area. Ida Flanagan is 81 years old. She doesn't have the time that you and I have—and I sincerely mean that—she does not have the time and I think now is the time for all of us to show these people that we care for them, that we have compassion for them and I ask you to defeat this pending motion.

Sen. LAMONTAGNE: Senator Green, you are a member of the Finance Committee?

Sen. GREEN: That is correct.

Sen. LAMONTAGNE: Did I hear you mention that there are enough funds that the cities and towns would be able to get back if this bill is passed?

Sen. GREEN: I don't understand your question.

Sen. LAMONTAGNE: The appropriation that is now in this bill—is it sufficient to take care of the cities and towns for the losses for the tax exemptions for the senior citizens?

Sen. GREEN: Senator, what I am saying is—based on the present law on the books and on the numbers that will come on as a result of the passage of this bill, the \$3,193,000.00 is figured to take care of those people who will be eligible.

Sen. LAMONTAGNE: In what year?

Sen. GREEN: In the tax year of 1975.

Sen. LAMONTAGNE: Then, where does the burden go after 1975? Does it go to the cities and towns?

Sen. GREEN: No. I do not think it goes to the cities and towns. It will be a statute on the books. It will be handled much like any other statute that is on the books that requires an annual or semi-annual legislative review of the budget appropriation.

Sen. LAMONTAGNE: I will have to oppose the motion and vote to send this matter to the House. I feel that the House members should have a crack at this. They are representing the small towns as well as the cities and, therefore, I am going to vote to send this matter on to the House floor. I only hope it has better treatment than I did on my truck bill.

Sen. BOSSIE: I rise in favor of the motion of Senator Ferdinando basically because there are too many questions left unanswered by this bill. Secondly, the bill addresses itself to elderly property owners. Elderly property owners are people of 70 years old who are fortunate enough to have accumulated sufficient funds to buy property before they are 70 years of age. In my District I have a sufficient number and a great number of individuals who rent, who live on the 2nd, 3rd and 5th story apartments who have, through the years been unable to even afford to buy a house. This bill does not in any way help them and, as the President has stated previously, it doesn't hurt them

either. But it certainly doesn't help them. I think this needs study—interim study. I think we can come back here in January with a positive bill, one which would help everybody. It certainly isn't the decent and the right thing to pass a bill at the 11th hour and the last minute.

Sen. GREEN: Would you agree that the present exemption law on the books now is costing the renters in every community an additional amount on their tax rate?

Sen. BOSSIE: It certainly appears to be.

Sen. GREEN: If we could send back to the towns and cities money in this bill to help alleviate that problem, do you feel that would have a total effect on the present tax rate in the communities?

Sen. BOSSIE: Your question is "if" and that is my answer. There has been no positive statement that this money is forthcoming. It is all speculation at this point whether we are going to have it or not.

Sen. GREEN: Saying that the present money that is appropriated in this bill is available—I don't know what it is going to take to convince you that is a fact—and the bill is passed and the money does go back to the cities and towns, will it in essence affect the tax rate of the people who are now renting?

Sen. BOSSIE: Theoretically, it should.

Sen. GREEN: Do you support the concept of the bill that \$3 million something available is the thing to do in terms of passing legislation to deal with this problem?

Sen. BOSSIE: It hasn't been proved to me yet. I don't know is the answer.

Sen. JOHNSON: I believe you said there were very few people in your District of Manchester who might be eligible?

Sen. BOSSIE: No, I did not say that. I said there are many people who probably would be eligible but there are more renters who would not receive any benefit under this bill. It is strictly for property owners. Many of my people are not property owners.

Sen. JOHNSON: I believe Mr. McGranahan told me you

have some 970 people who are on the rolls now and would be eligible.

Sen. BOSSIE: I would have no doubt.

Sen. FOLEY: The exemption for the elderly has been studied and restudied. This is the same bill that has been presented and presented again and passed both in the regular session and the special session—only this time there is full funding. I think it is time we stopped studying the plight of the elderly and helped them in some way.

### ROLL CALL

Roll Call requested by Senator Bossie. Seconded by Senator Green.

Yeas: Sens. Poulsen, McLaughlin, Ferdinando, Sanborn, Provost, Bossie.

Nays: Sens. Lamontagne, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, Claveau, R. Smith, Brown, Johnson, Preston, Foley and Nixon.

Result: Yeas 6; Nays 17.

Motion Lost.

Committee Report Adopted.

### ROLL CALL

Roll Call requested by Senator Spanos. Seconded by Senator Blaisdell.

Yeas: Sens. Lamontagne, S. Smith, Gardner, Bradley, Green, Jacobson, Spanos, Blaisdell, Trowbridge, Porter, Claveau, R. Smith, Brown, Johnson, Preston, Foley and Nixon.

Nays: Sens. Poulsen, McLaughlin, Ferdinando, Sanborn, Provost and Bossie.

Results: Yeas 17; Nays 6.

Ordered to Third Reading.

### SUSPENSION OF RULES

Senator S. Smith moved the Rules of the Senate be so far

suspended to dispense with referral to Senate Finance Committee and that SB 34 be placed on Third Reading and Final Passage at this time.

Adopted.

### Third Reading and Final Passage

SB 34, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons seventy years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and providing for an election between the homeowners' exemption and the elderly exemption.

Adopted.

### RECONSIDERATION

Senator Blaisdell moved Reconsideration of SB 34.

Motion lost.

### RECESS

### AFTER RECESS

### ANNOUNCEMENT

CHAIR: I would like to express my appreciation to each and every Senator who participated not only in the regular session but in the special session for the deliberate, reasoned, intelligent and fair minded way you treated all measures before you. I can think back to such things as abortion, such things as proposed constitutional amendments, to the death penalty, to every single issue that has come before this Body and I thank you for your help in having treated it in an intelligent and considerate and objective way, notwithstanding the many deeply felt feelings both pro and con. For that courtesy, the State is also in your debt as well as myself as your President. I think there is perhaps no other business to come before the Senate but the Chair awaits any announcement any Senator might make, having in mind that the House has accepted a motion to adjourn the 1974 special session.

### PERSONAL PRIVILEGE

Sen. SPANOS: I also would like to take this opportunity to

thank each and every one of you for all the cooperation you have given to me and to the minority party over these last sessions—the regular session and the special session. I can very dearly tell you that I am overwhelmed by the fine cooperation that has been displayed by each and every one of you despite the rather notorious beginnings of the session. I am going to tell you that I shall not be back in the Senate regardless of what happens and that, I think, probably what I will miss the most are the camaraderie, the philosophies, the in-fighting, the out-fighting and what have you—I tell you I will miss it very much and wish you all well and God Speed. Thank you.

Sen. PORTER: This is my last day serving in the Senate. I have made a decision not to return next year. I want to express my really heartfelt thanks for all the associations over the years. This year, particularly, has been gratifying. I have learned a lot—good things and bad things—but it has been an experience in life. I hope I have participated fairly with all of you. I know I have been treated very fairly and I express my appreciation to you all. I will be with you in spirit, if nothing else, next year and wish you well in your continued deliberations.

## HOUSE MESSAGE

### HOUSE NON-CONCURRENCE

SB 34, to provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons seventy years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and providing for an election between the homeowners' exemption and the elderly exemption.

Senator Foley moved the Senate do now adjourn from the early Session and that when the Senate adjourn it be in honor of the 50th birthday of Senator Jacobson which occurred last week.

Adopted

## LATE SESSION

Prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.



May the Lord watch between me and thee while we are absent one from another. May the Lord bless us and keep us. May the Lord make His face to shine upon us and be gracious unto us. May the Lord lift the light of His countenance upon us and give us peace, now and forever more. Amen.

Senators Porter and Foley moved the Senate adjourn at 7:05 p.m.

Adopted.



INDEX  
OF  
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## SUBJECT INDEX

### SENATE JOURNAL

The index on the pages immediately following refers to bills, joint resolutions, and concurrent resolutions by number. Other subject matter including roll calls have references to page number.

The Numerical Index following this index gives the page references to all action on numbered bills, joint resolutions and concurrent resolutions.

The abbreviations listed below are used in this Subject Index:

<b>adop</b>	adopted
<b>am</b>	amended, amendment(s)
<b>H</b>	House of Representatives
<b>intro</b>	introduced
<b>jt</b>	joint
<b>rep</b>	report
<b>res</b>	resolution
<b>SO</b>	special order

#### A

- Accounting practitioners, public accountants permitted to form professional associations ..... **HB 16**
- Actuary study of cost of living increases for retirement systems ..... **SB 18 am**
- Administrative procedure act, certain regulations of public works and highways exempt; fish and game department exempt until June 30, 1975 ..... **HB 24 am**
- Aged, property tax exemptions
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development center

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## SENATE JOURNAL

### NUMERICAL INDEX

This index, arranged by bill and resolution number, gives page numbers for all action in the Senate on each numbered bill and resolution. They are listed in the following order:

<b>SB</b>	Senate Bills
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To find a bill by its subject, see the Subject Index immediately preceding this Numerical Index.

All matters not contained in bills or resolutions will be found in the Subject Index.

The abbreviations listed below are used in the Numerical Index:

<b>adop</b>	adopted
<b>am</b>	amended, amendment
<b>com</b>	committee
<b>conc</b>	concurred
<b>conf</b>	conference committee
<b>enr</b>	enrolled
<b>Finance</b>	referred to Finance committee
<b>H</b>	House
<b>intro</b>	introduced
<b>IP</b>	indefinitely postponed
<b>jt rule 10</b>	time limitation on bills
<b>LT</b>	laid on table
<b>nonconc</b>	nonconcurred
<b>opin</b>	opinion
<b>psd</b>	passed
<b>RC</b>	roll call
<b>recon</b>	reconsideration, reconsidered
<b>rej</b>	rejected
<b>rep</b>	report
<b>S Ct opin req</b>	Supreme Court opinion requested
<b>SO</b>	special order
<b>Study</b>	referred to study committee
<b>wthd</b>	withdrawn, withdrew

#### SENATE BILLS

**SB 1** Providing for open and honest political campaigns in N. H. by requiring greater accountability and full disclosure of campaign contributions and expenditures; and protecting party loyalty by disqualifying defeated primary candidates from being nominated by petition under certain circumstances. (Nixon & Sanborn)  
18, am (RC) 184-197, psd 278-279, H nonconc, Study 618

**SB 2** To provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons 65 years of age or older, under certain circumstances. (Nixon et al)  
**New title:** To provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons 65 years of age or older, under certain circumstances, and compensating cities and towns for consequent loss

**See also Subject Index preceding this index**

of tax base and making an appropriation therefor, and making certain revisions in the homeowners' exemption law.

18, am (RC), Finance, am 223-246, psd 279, nonconc H am, conf 627, 681-682, 692, rep adop, enr 728-744, veto message & LT (RC) 754-784, veto sustained (RC) 801, 802-804

**SB 3** Changing the compensation of certain state law enforcement employees. (S. Smith et al)

New title: Changing the compensation of certain state law enforcement employees and fees of witnesses.

19, am 82-86, psd 111, H conc 618, enr 619, sent to governor 628 (Chapter 29)

**SB 4** Re penalties and forfeitures for noncompliance with sewage and waste disposal rules and regulations of the water supply and pollution control commission. (S. Smith)

19, am 91-92, psd 111, conc H am 473, enr 619, sent to governor 628 (Chapter 17)

**SB 5** Providing that a person cannot be denied unemployment compensation benefits if he refuses a job too distant from his home. (Trowbridge)

remarks 18, intro 19, am 62-63, psd 76, H nonconc 458

**SB 6** Re landlord-tenant relations. (Foley)

19, psd 141-143, 279, H nonconc 325

**SB 7** Re capital improvements to the Mt. Washington summit and making an appropriation therefor. (Poulsen et al)

19, Finance 72-73, am 122-123, psd 279, conc H am 619, enr 626 (Chapter 30)

**SB 8** Re the distribution of testate property following waiver of a will by surviving spouse. (Bradley)

New title: Re the distribution of testate property following waiver of a will by surviving spouse and re the form of notice given for termination of parental rights.

19, SO 63, am 92-97, psd 111, conc H am 473-474, enr 619, sent to governor 628 (Chapter 18)

**SB 9** Legalizing a special town meeting of the town of Wilmot. (Jacobson)

First new title: Legalizing special town meetings in Wilmot and Pittsfield; and the Seabrook School District meeting.

Second new title: Legalizing: certain special town meetings in Wilmot, Pittsfield, Enfield, Salisbury and Salem; 1974 annual town meetings in Rye, New Castle, Exeter, Salisbury, Enfield, Brentwood, Chester and Bethlehem; the Seabrook, Gilford, and Haverhill school district meetings; the special Hampton Falls school district meeting; the Warner village fire district proceedings; and the February 19, 1974 postings of March 5, 1974 town and school meetings.

19, am 117-119, psd 279, nonconc H am, conf 624, 625, rep adop 699-702, enr 726 (Chapter 43)

**SB 10** Establishing a sire stakes program and a standardbred breeders and owners development agency. (Downing et al)

New title: Establishing a sire stakes program and a standardbred breeders and owners development agency, and making an appropriation therefor.

19, Finance 63-72, am 121-122, psd 279, nonconc H am, conf 621, 625, rep adop 692, 693-695, enr 707 (Chapter 42)

**SB 11** Establishing a state historic preservation office and making an appropriation therefor. (Spanos)

19, com changed 73-74, psd 139-141, 279, H conc 618, enr 620, sent to governor 628 (Chapter 32)

**SB 12** To further protect the rights of mobile home owners by requiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks. (Nixon)

First new title: To further protect the rights of mobile home owners by re-

quiring the consumer protection division of the attorney general's office to promulgate guidelines as to what constitutes reasonable rules and regulations for mobile parks and by requiring that tenants be given copies of such rules and regulations.

**Second new title:** To further protect the rights of mobile home owners by requiring that mobile home park owners and operators state the rules and regulations of the park in writing and provide all tenants with copies of the rules and to encourage the construction of mobile home parks by not prohibiting the so-called "first sale" restriction in a new park.

19, am 143-148, psd 279, conc H am 474-476, enr 620, sent to governor 628 (Chapter 19)

**SB 13** Establishing a combined horse and dog racing commission. (Spanos)  
19, Study 218-219

**SB 14** Re election of delegates to the constitutional convention from Berlin. (Lamontagne)  
19-20, psd 21-22, H conc, enr 23 (Chapter 1)

**SB 15** Transferring permanent state prison employees from group I of the N. H. retirement system to group II or from the state employees' retirement system to group II, and making an appropriation therefor; and re retirement credit for William Grass, Jr. (R. Smith)

**New title:** Transferring permanent state prison employees from group I of the N. H. retirement system to group II or from the state employees' retirement system to group II, and making an appropriation therefor.

20, am 87-89, psd 111, H nonconc, Study 681

**SB 16** Expanding the definition of "industrial facility" under the industrial development authority to include post-secondary educational facilities. (Blaisdell & Nixon)  
20, Study 61-62

**SB 17** Re the N. H. port authority and making an appropriation therefor. (Foley & Preston)

**New title:** Re the N. H. port authority, the construction of fishing facilities at Portsmouth, Hampton and Rye harbors, and the location of marine science docking and related facilities for the university of N. H., and making an appropriation therefor.

20, com changed 73, am 123-139, psd 279, nonconc H am, conf 626, 627, rep adop 688-692, enr 707 (Chapter 50)

**SB 18** Providing cost of living increases for retirement allowances paid to currently active members of group I and group II of the N. H. retirement system, the N. H. firemen's retirement system, the N. H. policemen's retirement system, the N. H. teachers' retirement system and the state employees' retirement system, and making appropriations therefor; providing for compensatory contributions for interrupted service and the submission of budget requests to the general court; and providing additional cost of living increases for certain retired members of the N. H. teachers' retirement system and making an appropriation therefor. (Nixon et al)

**New title:** Providing additional cost of living increases for retired members of the N. H. teachers' retirement system, the N. H. policemen's retirement system, the N. H. firemen's retirement system, the N. H. retirement system and the state employees' retirement system, and making an appropriation therefor; providing for compensatory contributions for interrupted service; and providing for an actuarial study of prefunding to be paid out of escrowed funds derived from an interest assumption change.

20, SO 86-87, am (RC) 151-183, psd 279-280, H conc 624, enr 683 (Chapter 35)

**SB 19** Specifying procedures for termination of residential gas or electric services. (Bossie et al)

30, am 148-150, psd 280, conc H am 345, enr 372, sent to governor 472 (Chapter 11)

See also Subject Index preceding this index

**SB 20** Providing for regulation of franchise agreements for the sale of gasoline. (Bossie et al)

**New title:** Providing for regulation of franchise agreements for the sale of gasoline and requiring the posting of motor fuel prices.

30, am 259-265, psd 280, conc H am 598-599, enr 620, sent to governor 628 (Chapter 24)

**SB 21** Establishing a commission on children and youth. (Jacobson)

30, psd 212-214, 280, H nonconc, Study 618

**SB 22** Providing a limited tuition assistance to N. H. high school graduates who wish to attend accredited institutions of higher learning within the state. (Jacobson & Green)

**First new title:** Establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state.

**Second new title:** Establishing a study committee to develop a plan to provide public assistance to private institutions of higher learning in this state and re the Lafayette regional school district and Bethlehem school district.

31, com changed 56, am 119-121, psd 280, conc H am 476, enr 620, sent to governor 629 (Chapter 22)

**SB 23** Re planning boards. (Jacobson)

**First new title:** Re the membership of municipal planning boards and providing for the creation of cooperative regional planning commissions.

**Second new title:** Re the membership of municipal planning boards, conservation commissions and historic district commissions.

31, am 265-267, psd 280, nonconc H am, conf 619, 625, 682, rep adop 703-704, enr 726 (Chapter 44)

**SB 24** Authorizing cities and towns to grant franchises to cable television systems, to regulate the rates charged to their customers, to regulate the quality of service rendered and to regulate the quality and quantity of locally-originated programs. (Trowbridge et al)

**New title:** Authorizing cities and towns to grant franchises for cable television systems.

31, am 267-271, psd 280, conc H am 476-477, enr 620, sent to governor 629 (Chapter 23)

**SB 25** Providing for the appointment of the commissioner of health and welfare and the director of divisions of health and welfare by the governor and council. (Sanborn)

31, S Ct opin req 50-54, IP (RC) 248-259, opin printed 271-276

**SB 26** Providing for retirement benefits for supreme and superior court justices. (R. Smith & S. Smith)

31, psd 150-151, 280, conc H am 622, enr 626 (Chapter 25)

**SB 27** To better protect the safety of N. H. citizens and law enforcement officers by authorizing capital punishment in certain circumstances consistent with the New Hampshire Constitution and decisions of the supreme court. (Nixon)

**New title:** To better protect the safety of N. H. citizens and law enforcement officers by changing penalties for homicide in certain circumstances.

41-50, am & LT 197-212, psd (2 RC's) 246-248, 280, LT 593-594, nonconc H am, conf (RC) 652-681, 682, 698, 706, rep adop 707, (RC) 708-725, enr 744 (Chapter 34)

**SB 28** To establish standards of care and treatment of alcoholics, intoxicated persons and drug dependent people. (Gardner & Rep. Knight of Hil. 8)

77, psd 214-218, 280, H nonconc, Study 618

**SB 29** Exempting enterprises selling spirits and wines to the state of N. H. from the business profits tax. (R. Smith & Downing)

77, psd 219-223, 280, H nonconc 458

**SB 30** Not introduced

suspension of jt rule 10 rej (RC) 290-299, remarks by Sen. Jacobson 469-470

**SB 31** Authorizing the city of Berlin to acquire, develop and operate industrial parks within the city and to aid the construction and expansion of industrial facilities within the city by the issue of revenue bonds. (Lamontagne)

**New title:** Authorizing the cities of Berlin and Keene to acquire, develop and operate industrial parks within each such city and to aid the construction and expansion of industrial facilities within each city by the issue of revenue bonds.

318-319, am 372-376, psd 450, H conc 618, enr am 623, enr 626 (Chapter 26)

**SB 32** Not introduced

**SB 33** Legalizing the authorization of bonds by the town of Durham. (Johnson)  
intro & psd 747-748, H conc 785, enr 786 (Chapter 51)

**SB 34** To provide fairer real estate taxes for the elderly through a partial exemption from real estate taxes for persons 70 years of age or older, under certain circumstances, and compensating cities and towns for consequent loss of tax base and making an appropriation therefor, and providing for an election between the homeowners' exemption and the elderly exemption. (Nixon et al)  
intro & psd (2 RC's) 804-821, H nonconc 822

### SENATE JOINT RESOLUTIONS

**SJR 1** Compensating Rene Boucher for mileage while serving on the committee of voter registration and checklists and compensating Florence Pouliot for injuries suffered at the State House on June 13, 1973. (R. Smith & Rep. Pryor of Coos 7)

**New title:** Compensating Rene Boucher for mileage while serving on the committee of voter registration and checklists.

20, am 89-91, psd 111-112, H conc 301, enr 325, sent to governor 472 (Chapter 6)

**SJR 2** Establishing an interim committee to study oil companies and other energy suppliers. (Bossie et al)  
31, psd 218, 280 [H nonconc]

**SJR 3** Establishing a committee to study highway safety and motor vehicle weight, length, and width requirements. (Lamontagne)  
292, psd 326, 371, conc H am 623, enr 626 (Chapter 27)

### SENATE CONCURRENT RESOLUTIONS

**SCR 1** Referring the question of the reclassification of a certain highway in the town of Clarksville to a joint legislative committee. (Lamontagne)  
[adop] 114-115, H conc 618

**SCR 2** Referring the question of compensation for the town of Gorham to a joint legislative committee. (Lamontagne)  
[adop] 115-116, H conc 618

**SCR 3** Re school safety patrol. (Green)  
301, adop 368-369, H conc 458

### HOUSE BILLS

**HB 1** Making supplemental appropriations for expenses of certain departments of the state for the fiscal years ending June 30, 1974 and June 30, 1975 and making other budgetary changes.  
277, am & psd 483-526, H nonconc, conf 592, 682, rep adop 686-688, 692, enr 705 (Chapter 40)

**HB 2** Making appropriations for capital improvements.  
288, am (RC) 376-407, psd 451-453, H nonconc, conf 592-593, rep adop 642-645, 692, enr 705 (Chapter 38)

See also Subject Index preceding this index

**HB 3** Re establishment of a food stamp program and making an appropriation therefor.  
277, com changed 299-300, psd 408, 450, enr 477, sent to governor 617 (Chapter 14)

**HB 4** Providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing flat grant payments for categorical assistance.

**New title:** Providing supplemental grants to families with dependent children and making an appropriation therefor and authorizing consolidated grant standards for categorical assistance excluding shelter.

277, Finance 326, am 594-598, psd 616, H nonconc, conf 622, rep adop 637-640, 692, enr 705 (Chapter 48)

**HB 5** Re the office of energy administrator.

277, SO 302-304, am (RC) & Finance 345-367, psd (RC) 442-450, recon rej 451, H nonconc, conf 591, remarks by Sen. Lamontagne 645-650, new conf 697-698, 699, 704, 706, 707, discharged by H, remarks by Sen. Lamontagne 725-726

**HB 7** Permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states and permitting broader cooperation in furnishing of municipal services.

**New title:** Permitting municipalities to establish, acquire, maintain and operate public transportation facilities in cooperation with governmental units of adjoining states; permitting broader cooperation in furnishing of municipal services; and permitting cities and towns to appropriate money for group homes.

77, com changed 283-284, am 326-328, psd 371, H conc 458, enr am 532-533, enr 620, sent to governor 629 (Chapter 15)

**HB 9** Increasing the debt limit for the Londonderry school district.

56, psd 79, 112, enr 113, sent to governor 471 (Chapter 2)

**HB 11** To increase the salaries of state classified employees and employees of the university system and providing differential pay to classified prison employees and correctional psychiatric aides at the N. H. hospital and making appropriations therefor.

**New title:** To increase the salaries of classified employees and employees of the university system and the N. H. network and providing differential pay to classified prison employees and correctional psychiatric aides and providing nurses' reclassification at the N. H. hospital and Laconia state school and making appropriations therefor.

277, am 408-414, psd 451, H nonconc, conf 591, rep adop 695-697, 699, enr am 706-707, enr 726 (Chapter 47)

**HB 12** Conforming tax commission references in the current use taxation law to the revised revenue administration laws.

112, psd 329, 371, enr 372, sent to governor 472 (Chapter 7)

**HB 13** Repealing the termination date of RSA 357-B.

113, LT 535-538, psd (RC) 550-556, enr 620, sent to governor 629 (Chapter 20)

**HB 15** Re redistricting the ward lines of the city of Laconia.

277, am 304-305, psd 324, H conc 325, enr 372, sent to governor 472 (Chapter 8)

**HB 16** Permitting public accountants to form a professional association.

**New title:** Permitting public accountants and registered professional nurses to form professional associations.

56, am 305-307, psd 324, H conc 325, enr 372, sent to governor 472 (Chapter 10)

**HB 17** Increasing the mileage rate for all state employees using privately owned passenger vehicles and making an appropriation therefor.

277, am 414-415, psd 451, H conc 591, enr 620, sent to governor 629 (Chapter 16)

**HB 18** Requiring local approval prior to approval of site plans for oil refineries.  
**New title:** Requiring local option for siting of oil refineries.  
 277, com changed 283, am (RC) 429-442, psd 451, H nonconc, conf 592, rep  
 adop 632, 692, enr 705 (Chapter 36)

**HB 19** Increasing the amount of political expenditures authorized for candidates  
 in primary and general elections seeking the office of governor, U. S. senator,  
 representative in congress, governor's councilor, county officer, state senator or  
 representative to the general court.  
 77, psd (RC) 307-317, 324, enr 325, sent to governor 471-472 [vctod]

**HB 20** Increasing the interest rate of housing authority bonds.  
 77, psd 320, 324, enr 325, sent to governor 472 (Chapter 4)

**HB 21** Re the duties of the state board of education and prohibiting the ex-  
 penditure of public moneys in nonpublic schools unless said schools have  
 program approval by the department of education.  
**New title:** Re the duties of the state board of education and prohibiting the  
 expenditures of public moneys in nonpublic schools unless said schools have  
 program approval by the department of education, supervisory union account-  
 ing of federal funds and establishing the office of chancellor of the university  
 of N. H. system.  
 77, LT 479-483, am & psd 526-527, 556, H conc 618, enr 623-624, sent to  
 governor 629 (Chapter 28)

**HB 23** Continuing present city of Somersworth's elected officials in office until  
 the next regular election and electing constitutional convention delegates from  
 old wards.  
**New title:** Continuing present city of Somersworth's elected officials in office  
 until the next regular election, and legalizing the election of delegates to the  
 constitutional convention from the old wards of said city.  
 intro & LT 78, am 116-117, psd 280, H conc 299, enr 325, sent to governor 472  
 (Chapter 5)

**HB 24** Permitting the use of changeable effective date designations, such as  
 decals, on all motor vehicle and boat registration plates; authorizing the gov-  
 ernor and council to establish temporary speed laws; exempting certain func-  
 tions re motor vehicles and highways from the provisions of the administrative  
 procedures act; and exempting the department of fish and game from proce-  
 dural requirements of their rule making under Title XVIII, until June 30,  
 1975.  
**New title:** Permitting the use of changeable effective date designations, such as  
 decals, on all motor vehicle and boat registration plates; authorizing the gov-  
 ernor and council to establish temporary speed laws; exempting certain func-  
 tions re motor vehicles and highways from the provisions of the administrative  
 procedures act; exempting the department of fish and game from procedural  
 requirements of their rule making under Title XVIII, until June 30, 1975; and  
 providing certain free motor vehicle privileges to disabled veterans.  
 113, com changed 284, am 538-550, psd 557, H nonconc, conf 621-622, new conf  
 626-627, 698, 704-705, rep adop 727-728, enr 744-745 (Chapter 45)

**HB 25** Changing the reporting date for the study commission on the problems  
 of unemployed citizens in N. H.  
 113, psd 328-329, 371, enr 372, sent to governor 472 (Chapter 9)

**HB 27** Re amending certain provisions of the off highway recreational vehicle  
 law, RSA 269-C.  
 113, psd 428-429, 451, enr 532 (Chapter 12)

**HB 28** Authorizing Franklin Pierce College to grant the degree of juris doctor.  
 56, psd 79-82, 112, enr 113, sent to governor 471 (Chapter 3)

**HB 29** Re tuition payments for handicapped children; amending the appropria-  
 tion for same; defining a handicapped child as a person up to the age of 21;

and providing for educational and other expenses in public institutions.  
113, SO 325-326, am 459-465, psd 470, recon rej 471, H nonconc, conf 591-592, rep adop 640, 692, enr 705 (Chapter 37)

**HB 30** Re the civil commitment procedures in the probate courts and detention and discharge procedures for the mentally ill.

78, am 420-422, psd 451, H conc 477, enr 532 [recalled] H nonconc, conf 625, rep adop 702, 703, enr 726-727 (Chapter 46)

**HB 31** Authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public, and making an appropriation therefor.

**New title:** Authorizing the public utilities commission to acquire, as agent of the state, such railroad properties within the state deemed to be necessary for continued and future railroad operation for the benefit of the public and authorizing bonding therefor; provided that if the 1975 general court by vote of both houses prior to March 13, 1975 evidences its approval the foregoing authority shall on that date be transferred to the N. H. transportation authority and the public utilities commission's authority shall be terminated.

277, Finance 300-301, am 600-614, psd 616, H nonconc, conf 621, 682, rep adop 683-686, 693, enr 727 (Chapter 49)

**HB 32** Re the commission and taxes on pari-mutuel pools at dog tracks.

278, SO 329-344, psd (RC) 465-469, 471, enr 477, sent to governor 617 (Chapter 13)

**HB 33** Re the Winnepesaukee River Basin Control; and providing for continuation of the study committee on water supply and pollution control commission.

278, am 453-458, psd 471, H nonconc, conf 593, rep adop 640-641, 693, enr 707-708 (Chapter 41)

**HB 34** Re energy facility evaluation, siting, construction and operations and providing for a tax on refined petroleum products.

**New title:** Re energy facility evaluation, siting, construction and operations; providing for a tax on refined petroleum products; and establishing an energy facility study committee.

278, com changed 283, am (RC) 557-590, psd 617, H nonconc, conf 622, rep adop 632-637, 693, enr 705 (Chapter 39)

**HB 35** Providing for 20 years retirement for members of group II under the N. H. retirement system, permitting the transfer of members of the N. H. firemen's retirement system and of the N. H. policemen's retirement system into the N. H. retirement system and making an appropriation therefor.

278, am (RC) 415-420, psd 451, H nonconc, conf 593, rep adop 641-642, 693, enr 705 (Chapter 33)

**HB 36** Permitting the sale of milk in 3 quart containers.

283, 285-286, psd (RC) 527-532, recon & psd (RC) 533-534, 557, enr 620, sent to governor 629 (Chapter 21)

**HB 37** To provide for the repeal of the law tending to prohibit hitchhiking.

283, 285-286, LT (RC) 422-428, psd (RC) 534-535, 557, enr 620, sent to governor 629 (Chapter 31)

**HB 40** Providing for additional pay and overtime pay for nurses at N. H. hospital, Laconia state school and training center, the N. H. youth development center, the N. H. home for the elderly, and the N. H. veterans' home, and making an appropriation therefor; and making an appropriation for overtime pay for conservation officers.

**New title:** Providing for additional pay and overtime pay for nurses at N. H. hospital, Laconia state school and training center, the N. H. youth development center, the N. H. home for the elderly, and the N. H. veterans' home,



and making an appropriation therefore; and making an appropriation for overtime pay for conservation officers; and providing for increases in classified salaries for recruitment.  
intro & psd (RC) 787-801, enr 802 (Chapter 52)

### HOUSE CONCURRENT RESOLUTIONS

**HCR 1** Memorializing Miriam Jackson.  
adop 55-56

**HCR 2** Establishing a joint committee to study the railroad conditions and related matters in the state of N. H.  
278, am & adop 319-320, H conc 325

**HCR 3** Re the protection of the N. H. fishing industry.  
278, adop 288-289

**HCR 4** Re joint rule 32, neither house shall adjourn for longer than 5 days without the consent of the other.  
113-114

**HCR 5** Establishing a schedule of legislative days for the remainder of the special session.  
adop 287-288

**HCR 6** Proclaiming March 26, 1974 as "Robert Frost Day."  
301, adop 322

**HCR 7** Establishing a joint committee to study federal funding from the Administration on Aging.  
intro & adop 477-479









